IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35825-2023
Reserved on : January 16, 2024
Date of Decision: January 19, 2024

Manish Kumar Pandey …Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Mahir Sood and Mr. Pranshul Dhull, Advocates
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

Mr. Pankaj Kumar, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in a case arising out of FIR No.285 dated 23.07.2022, under Sections 419, 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Sector 31, District Faridabad.

2. (i) It emerges on perusal of the paper-book that one Shri J.L. Dogra was the owner of house No.2161, Housing Board Colony, Sector 28, Faridabad. On his death on 16.08.2020, his son Narender Dogra became owner of the house and the house was transferred in his name on 23.02.2021. Unfortunately, said Narender Dogra also died on 15.07.2021 and he was succeeded by his widow Rashmi Dogra *(complainant in this case)* and other legal heirs.

(ii) Complainant was in the process of getting the house transferred in her name, when she received a communication from regional business head, Hinduja Leyland Finance, New Delhi, from which it transpired that Manish Kumar Panday *(petitioner)* had applied for financial assistance from them, claiming to be the owner of the aforesaid house on the dint of a sale deed dated 15.09.2021.

(iii) On obtaining certified copy of the sale deed, complainant came to know that someone had impersonated J.L. Dogra and had executed a sale deed bearing document No.4400 dated 15.09.2021 in favour of petitioner - Manish Kumar Panday, as Shri J.L. Dogra was not alive on the date of alleged sale deed, having already expired on 16.08.2020. Complaint was lodged with the police alleging that the petitioner in collusion with other witnesses, had committed the fraud. Sh. S.K. Batra and Kr. Vinay Rawat, Advocates were stated to be witnesses of the sale deed. FIR was registered.

(iv) During investigation, petitioner was arrested on 27.03.2023 and in his detailed disclosure statement (Annexure R-1), he disclosed that it was projected to him by Kuldeep Arya that he was the owner of house in question. Kuldeep Arya helped the petitioner in getting executed the forged sale deed in his name and further helped him in all means in getting loans from different financial institutions. It was also found during investigation that the petitioner in collusion with co-accused secured 4-5 certified copies of the forged sale deeds and then obtained loan of ₹1,36,00,000/- from Edelweiss Bank, Delhi; another loan of

₹1,13,88,075/- from Shriram Finance Green House, Delhi; and another loan of ₹1,39,48,957/- from Aditya Birla, against the same house belonging to the complainant.

(v) Investigation, thus, revealed that petitioner Manish Kumar Pandey, by fraudulently mortgaging the same property to different banks, secured loans running into crores of rupees. It was further found that petitioner transferred the money in the account of Sonu Sharma, Priya Auto Mobile, Ashish Dogra and Shri Shyam Enterprises as part of conspiracy with co-accused Kuldeep Arya and Pramod Aggarwal. Petitioner also applied for another loan in Hinduja Leyland Finance on the basis of same forged sale deed, but the same could not be approved as during the verification by the bank, the fraud was unearthed and complainant came to know about the same.

3.1 It is contended by learned Sr. counsel that petitioner was facing the situation of cash crunch during COVID-19 while running his businesses and was contacted by Vikramjeet Saraiya, who portrayed him as a financial advisor, so as to help him (petitioner) in financial assistance from private sector banks or NBFC and that he shall ensure that a third-party collateral will be provided as security.

3.2 Learned Sr. counsel submits further that co-accused Kuldeep Arya and Vishal Tanwar colluded with each other in committing fraud upon the petitioner, who was represented on all the occasions and it is by believing them that the petitioner became a bonafide victim of fraud. Petitioner purchased the house of Sector 28, Faridabad, without knowing that sale deed was executed by some fake person and that it is co-accused, who along with others impersonated as J.L. Dogra and that petitioner bonafidely believed that fake person to be J.L. Dogra until he got to know the true picture. Petitioner concedes availing loan to the tune of ₹3.86 crores from different financial institutions, but submits that those loans were smoothly sanctioned, as he had developed trust upon the co-accused.

3.3 Learned Sr. counsel submits further that it is only when the petitioner applied for another loan to Hinduja Finance Group that he came to know for the first time that he has been cheated by the co-accused. He then moved a complaint dated 04.05.2022 against co-accused Vikramjeet Saraiya, Kuldeep Singh Pundhir, Vishal Arya and Pramod Aggarwal before Deputy Commissioner of Police, DIU, North Delhi for various offences; and that the present FIR has been registered after the complaint made by the petitioner.

3.4 Learned Sr. counsel further submits that after conclusion of the investigation, final report has already been filed; that petitioner is in custody for the last more than 10 months; that the offences in questions are triable by Magistrate, who cannot impose punishment more than 03 years and that the trial may take time to conclude and so, in all these circumstances, petitioner be released on bail.

4.1 Strongly opposing the bail petition, learned State counsel ably supported by learned counsel for the complainant contends that the petitioner actively participated in committing the offences in collusion with the co-accused and he secured loans running into crores of rupees by fraudulently mortgaging the same property to different banks and that property in question was purchased by him from a fake person. Learned State counsel contends that the petitioner transferred the money in the account of co-accused also, showing that he was a part of the conspiracy.

4.2 Learned State counsel further submits that the petitioner had ofcourse filed a complaint dated 04.05.2022 to the Deputy Commission of Police, DIU North Delhi against co-accused, but despite issuance of summons for a number of times for recording his statement, petitioner neither joined the inquiry nor provided any information and so, that complaint was filed to the record room vide order dated 12.04.2023 of Assistant Commissioner of Police, DIU, North Delhi, clearly indicating that the filing of the complaint was just an eye wash to hide his criminal acts and to portray himself as a victim.

4.3 Learned State has further drawn attention towards the status report to contend that it is highly unbelievable that before purchasing the house in question at Sector 28, Faridabad owned by the complainant, petitioner did not verify the title thereof. The forged sale deed was registered in the name of the petitioner and he, in collusion with others, got credit facilities and later on purchased costly luxury cars including Fortuner, BMW etc.

4.4 Learned State counsel also submits that as per the petitioner, after the death of husband of the complainant, a company, named Mikaster Engineering Services Pvt. Ltd. had applied and obtained cash credit limit to the tune of ₹1,30,00,000/- from the Bank of Maharashtra, Branch East Patel Nagar, New Delhi, but it was found that some fake person had posed as deceased husband of the complainant (Narender Dogra) as one of the Directors of the company because Narender Dogra had resigned from that company way back on 25.06.2022. This fact came to the knowledge of the police recently after filing of the final investigation report and this fact was not disclosed by the petitioner during his disclosure statement.

With all these submissions, prayer is made for dismissal of the petition.

5. I have considered submissions for both the sides and have appraised the record.

6. No doubt, offences in question are triable by the Magistrate and the petitioner is already in custody for the last more than 10 months, but that in itself does not entitle the petitioner to be released on bail.

7. Having regard to the magnitude of the fraud and forgery committed by the petitioner in collusion with the co-accused and his criminal antecedents and the modus operandi by which the offences have been committed, but without commenting anything further on the merits of the case, this Court is not inclined to release the petitioner on bail.

Dismissed.

January 19, 2024 **(DEEPAK GUPTA)**
sarita **JUDGE**

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No