

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-38988-2023

Date of Decision:-07.02.2024

Hira Lal @ Heera Lal & Anr.

.....Petitioners.

Vs.

The State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Gaurav Datta, Advocate &
Mr. Gurkirat Singh, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

Mr. Sarju Puri, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.328 dated 18.12.2022 under Sections 420, 406 and 506 IPC registered at Police Station Model Town, District Hoshiarpur.

2. The brief facts of the case are that the present FIR came to be registered on the basis of an application moved to the SSP, Hoshiarpur by Pankaj son of Harish Chander. He alleged that the accused/petitioners had agreed to sell their house measuring 05 Marlas 15 Sq.ft. for a sum of Rs.29 lacs and had executed an agreement dated 12.03.2020 in favour of his (complainant's) wife Preeti and had received Rs.2 lacs in cash. As the house was under mortgage, the petitioners had agreed to pay the loan amount for which they had taken Rs.17 lacs from him (complainant) to be deposited in

the loan/limit account. One GPA had also been executed in his favour. However, with an intention to cheat him, the GPA was got cancelled by them (petitioners). Thereafter they (accused/petitioners) refused to return the loan amount to the bank or to execute the sale deed in his (complainant's) favour.

3. The Counsel for the petitioners contend that they have been falsely implicated in the present case. In fact it is a business dispute between the complainant on the one hand and the petitioners on the other as they were friends. Blank signed papers had been misused by the complainant. The dispute if any is primarily of a civil nature. The case is otherwise triable by the Court of a Magistrate. As the petitioners were first time offenders, in custody since 16.06.2023 and none of the 14 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioners were entitled to the concession of bail.

4. The Counsel for the State has filed Status report by way of affidavit dated 07.02.2024 of Mr. Amar Nath, PPS, DSP, Sub Division City, District Hoshiarpur in court today which is taken on record. While referring to the said reply the counsel for the State as well as the Counsel for the complainant contends that the investigation conducted so far clearly establishes the fact that a sum of Rs.21 lacs had been paid to the petitioners to purchase the property in question. The said amount was to be deposited by the petitioners into their loan account. Neither the petitioners had deposited the said amount nor did they get the sale deed executed in favour of the complainant. In fact the GPA executed by them in favour of the complainant itself was cancelled. They therefore contend that the nature of the allegations levelled against the petitioners did not entitle them to the

grant of bail. They however concede that the petitioners were first time offenders, in custody since 16.06.2023 and that none of the 14 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for both the parties at length.

6. This Court in the case titled as **Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab** bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022 has held as under:-

“ Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

7. Admittedly, the petitioners are first time offenders, in custody since 16.06.2023 and none of the 14 prosecution witnesses have been examined so far. Nothing significant has been pointed out by the State that the petitioners would abscond from the Trial, tamper with the evidence or influence the witnesses if they are granted the concession of regular bail. Therefore, their further incarceration is not required.

8. Thus, without commenting on the merits of the case, the petitioners-**Hira Lal @ Heera Lal** son of Sh. Sadhu Ram and **Jaswinder Singh** son of Sh. Hira Lal are ordered to be released on bail subject to their satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioners shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing each time that they are not involved in any other crime other than the present case.

10. The petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.2,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioners from the Trial without sufficient cause.

11. The Petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 07, 2023

Vinay

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