



216

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CRM-M-37411-2024

Date of Decision: September 04, 2024

**KULWINDER SINGH BHARJ**

....Petitioner(s)

**VERSUS****STATE OF PUNJAB**

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Bijender Singh Dhankhar, Advocate  
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

Mr. Harsh Aggarwal, Advocate  
for GLADA.

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**SANDEEP MOUDGIL, J.(ORAL)****1. Relief Sought**

The jurisdiction of this Court under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been invoked seeking the concession of regular bail for the petitioner in FIR No.18 dated 13.02.2024, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station Dugri, Ludhiana, District Ludhiana.

2. Prosecution story set up in the present case as per the version in the FIR read as under :-

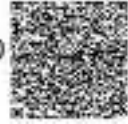
*'At this time, one application PGD No.289707/286928 dated 15.01.2024 from Mahinder Singh son of Sunder Singh, resident of House No.3130, Phase-2, Dugri, Ludhiana has been received through post at Police Station Dugri for registration of F.I.R., on the basis of that, the F.I.R. is being register. Application PGD No.289707/286928 dated 15.01.2024 received from Mahinder Singh is as under. To, The Commissioner of Police, Ludhiana, Subject: Application for registration*



of F.I.R. under Sections 383, 406, 420, 465, 467, 468, 471 and 120-B of IPC by taking the legal action against No.1. Taranjeet Singh son of Satnam Singh, resident of House No.3100, Dividing Road, Dugri, Ludhiana (Mobile No. 98761- 00478), 2. Kulwinder Singh Bharaj son of Kundan Singh, resident of House No.513-L, Model Town, Ludhiana (Mobile No.9872608821) at present resident of 25-D, Palm Garden, Basant Avenue, Ludhiana, 3. Upjeet Singh son of Harminder Singh, resident of House No.409-411, Basant Avenue, Ludhiana (Mobile No.8430200005) 4. Jasdeep Singh son of Surinder Singh, resident of Dugri, Ludhiana (Mobile No.7508400077), 5. Sandeep Singh (Worker) care of GLADA, Ludhiana (Mobile No.9914307258) (Witness of Registry), 6. Gokul Chander, Namberdar, Dhandran, Ludhiana (Witness of Registry), 7. Mohan Singh son of Mausri Singh (Numberdar, Dugri, Ludhiana) (Witness of Registry) 8. Satnam Kaur, resident of Village Manakwal, Ludhiana (Witness of Registry), 9. Parkash Kaur, resident of Village Manakwal, Ludhiana (Witness) (Witness of Registry) 10. Baljeet Singh son of Didar Singh, resident of Village Manewal, Machiwara, Ludhiana (Vendor of Plot measuring 400 sq. yards) 11. Harnek Singh (Numberdar Haibowal Khurd, Ludhiana) (Witness of Registry) in connivance of each other and other well-planned conspiracy for receiving the hefty amount from the applicant with intention to commit fraud and for executing the fake registry on the basis of forged documents, to extend the life threat and to extent the threats to implicate in false cases on asking to return his amount by the applicant. Sir, I Mahinder Singh son of Sunder Singh, is resident of House No.3130, Phase-2, Dugri, Urban Estate, Ludhiana and submits as under: 1. That I am peace-loving and law abiding citizen of India. 2. That the accused no.1 Taranjit Singh is my neighbour and due to that we were well known to each other. The accused no.1 Taranjit Singh told to me that he is having too S.C.F. having numbers 266 and 267 and every SCF is measuring of 158.58 sq. yards and these both vacant plots are situated at Dugri, Ludhiana. He also said to me that he wants to sell his both plots. 3. That after hearing the talks of accused no.1 Taranjit Singh, I became ready to purchase the above said plot. On that accused no.1 in connivance of rest of the accused persons executed the agreement to sell



of one SCF having no.266 with my son Ajitpal Singh in total sale consideration of ₹ 1,72,50,000/- (One Crore Seventy Two Lacs Fifty Thousand Only) and received an amount of 90,00,000/- (Ninety Lacs) from me on different-different dates and with the consent of both the parties, the target date for execution of registry was fixed as 10.05.2023 on receiving the rest of the amount. 4. That thereafter the accused no.1 in connivance of other accused persons executed agreement to sell of one more SCF having no.267 in total sale consideration of ₹ 1,72,50,000/- (One Crore Seventy-Two Lacs Fifty Thousand onloy) and the accused no.1 to 4 received an amount of 20,00,000/- (Twenty Lacs) through RTGS HDFCR 52022110958885071 on dated 09.11.2022 and an amount of ₹ 34,94,995/- (Thirty Four Lacs Ninety Four Thousand Nine Hundred Ninety Five) was received through RTGS having No.HDFCR 52022121467626834 dated 14.12.2022 HDFC Bank from the total sale consideration and rest of the amount i.e. ₹ 1,17,55,005/- (One Crore Seventeen Lac Fifty Five Thousand Rupees) was received in cash and alongwith that the stamp duty of 3,33,300/- (Three Lacs Thirty Three Thousand Three Hundred) of registry, an amount of 2 1,36,300/- (One Lacs Thirty Six Thousand) for court fee and an amount of ₹ 1,72,500/- (One Lacs Seventy Two Thousand Five Hundred) as commission as received from me. In this manner by taking the miscellaneous expenses, the accused persons executed the registry in favour of my son Ajitpal Singh of SCF No.267 after receiving the whole amount ie. 2 1,80,00,000/- from me, whose Vasika number is 2022-23/101/1/9885, dated 19.12.2022. The accused persons in connivance of each other and under well planned conspiracy and by committing the fraud have received a total amount of ₹ 2,70,00,000/- (Two Crore Seventy Lacs) from us in lieu of the SCF 266 and 267. 5. That after the execution of the registry of the above said SCF No.267 in favour of my son Ajitpal Singh, when we went to the office of GLADA for the entry of mutation then we came to know that the registry of above said SCF No.267 which has been executed in favour of my son by the above said accused persons in connivance of each other, that has been executed by them after preparing the forged documents. We have come to know from the office of the GLADA that the accused no.2 is not having any plot in



*the record of GLADA and neither there is any allotment on his name nor any NOC has been given to him by GLADA. They have prepared all the forged documents and Sandeep Singh (Worker) care of GLADA, Ludhiana (Mobile No. 9914307258) (Witness on Registry) is also involved in this conspiracy. We tried many times to contact these accused persons and whenever, the accused persons met to us then they kept on to make the excuses. When we asked the accused persons about the execution of registry by them on the basis of the forged documents, then after exchange of heavy arguments, all the accused persons admitted their mistake and promised to return our whole amount to us. According to this promise, all the accused returned an amount of 25,00,000/- (Twenty Five Lacs) in cash to us on dated 09.06.2023 and from the rest of the amount, more amount of 25,00,000/- (Twenty Five Lacs) returned to us, in this manner the accused persons have returned an amount of ₹ 50,00,000/- (Fifty Lacs) to us. The accused persons had promised to return the whole rest of the amount to us within four months. Despite the passing of four months, the accused persons have paid nothing to us from the rest of the amount. During this the accused persons showed one plot measuring 400 sq. yards and one plot measuring 1200 sq. yards and gave us assurance that the documents pertaining to these both plots are genuine and correct and there is no any default in that accused persons also told to us that the price of both plots is 14,500/- per sq. yards. We believed upon them and we got ready to take the above said plots measuring 400 sq. yards and 1200 sq. yards so that we could recover our maximum to maximum balance amount. The above said accused persons in connivance of each other executed the registry of above said plot measuring 400 sq. yards in favour of my son Amarpal Singh whose Vasika No.2023/24/101/1/9114 dated 14.09.2023. After the execution of the registry, when we went to get construct the boundary wall and to install the banner at the above said plot measuring 400 sq. yards then we were asked to leave from the above said plot by the other purchaser of the above said plot ie GABA Property dealer, Rajguru Nagar, Ludhiana, (Mobile No.9814000252) by saying that this plot belongs to them and they have sold the above said plot measuring 400 sq. yards to some NRI. They also said to us that*



*fraud has been committed with you. The above said accused persons received 20,00,000/- in lieu of the plot measuring 400 sq. yards, from which 2,00,000/- in cash and 10,00,000/- through cheque bearing cheque no.000101 dated 04.09.2023 through HDFC Bank Branch Manju Cinema, Ludhiana and an amount of ₹ 8,00,000/- through cheque having cheque no.000102 dated 14.09.2023 of HDFC Bank Branch Manju Cinema, Ludhiana in favour of Baljit Singh (Accused No.10) Account No.01591000065216 Punjab and Sind Bank Branch Sunet Ludhiana and for purchasing the stamp papers for execution of the plot, an amount of 1,00,000/- in cash and an amount of 68,824/- for stamp duty was also received. In this manner, the accused persons have grabbed total amount of 21,68,824/- from us by committing the fraud in lieu of the plot measuring 400 sq. yards. We came to know that the accused persons have again committed the fraud with us. Thereafter, we tried to contact the accused persons and told to them for committing the fraud with us with regard to the plot measuring 400 sq. yards and after exchange of heavy arguments, the accused persons have admitted their mistake and promised to return our whole amount till 15.12.2023. In this manner, we are supposed to take an amount of ₹ 2,70,00,000/- ₹21,68,824 ₹50,00,000/- 2,41,68,824/- 6. That the above said accused persons have grabbed mine and my family's hard-earned money in connivance of each other by committing the fraud. Now our whole family is under the heavy loan which would be very difficult to pay. 7. That now whenever, we call to the above said accused persons, then they did not answer the calls and abuse us and extend the life threats to us and to falsely implicate in false cases. Now we have come to know that the accused persons are about to go abroad after receiving the hefty amount from us because their family members and relatives are residing in abroad. 8. That the accused persons are goons type person who can cause any monetary or life to me and my family members by committing any untoward incident. 9. That other complaints are also registered against the above said accused persons from committing the fraud. So it is submitted to you that after taking the legal action F.I.R. under Sections 383, 406, 420, 465, 467, 468, 471 and 120-B of I.P.C. may be registered against the above said accused persons for extending the life threats and for extending the*



*threats to implicate in false cases and for committing the fraud in connivance of each other under the well planned conspiracy and receiving the hefty amount and by preparing the forge documents and on the basis of the same to execute the fake registry and our hard earned money may be get returned and the above said accused persons may be restrained from going to abroad and our life and liberty may be protected and justice be may be delivered to us. Applicant Mahinder Singh son of Sunder Singh, resident of House No.3130, Phase-2, Dugri, Urban Estate, Ludhiana, Mobile No.9815911248 dated 09.01.2024. The inquiry of the above said application was conducted by the Assistant Commissioner of Police North Ludhiana who has written in his inquiry report that it has been found from the inquiry of the application till now and from the perusal of the documents which were produced and the statements that Taranjit Singh son of Satnam Singh, resident of House No 33100, Diving Road, Dugri, Ludhiana is neighbour of applicant Mahinder Singh and arrange the meeting of applicant for the execution of the deal of SCF No.266 and 267 measuring 158.58 sq. yards situated at Phase-2, Dugri, Ludhiana with Kulwinder Singh Bharaj son of Kundan Singh, resident of House No.513-L., Model Town, Ludhiana at present resident of 25-D, Palm Garden, Basant Avenue, Ludhiana, Upjeet Singh son of Harminder Singh, resident of House No.409-411, Basant Avenue, Ludhiana and Jasdeep son of Surinder Singh, resident of Dugri, Ludhiana. Who by showing the original documents in favour of Kulwinder Singh pertaining to the registry of SCF No.267 and the documents pertaining to the SCF No.266 showed to applicant Mahinder Singh. From the documents which were showed, the photocopy of Vasika dated 12.05.2023 with regard to ownership of SCF No.266 on that Mohan Singh and Harnek Singh have signed as witness. On Vasika No.2022/23/101/1/8200 dated 15.11.2022 with regard to the ownership of SCF No.267, there are signatures of Gokul Chand and Harnek Singh as witness and there are signatures of Sandeep Singh as GLADA Officer with regard to the execution of registry of both SCF No.266 and 267. At the time of the execution of the registry of SCF No.267, Satnam Kaur and Parkash Kaur have signed as witness, which is attached for the perusal. Thereafter, the registry of SCF No.267 and the agreement to*



*sell of SCF No.266 of dated 08.11.2022 was executed in favour of Ajitpal Singh son of applicant by the opposite party. At the time of the deal, Taranjit Singh and others also showed no due certificate of SCF No.266 and 267 and authority letter having memo no.GLADA/2622/GLADA/22-23/NOC/192 dated 26.05.2023 for selling the SCF No.266 and authority letter bearing memo no.GLADA/223/GLADA/22-23/COO/454 dated 02.03.2023 with regard to the transfer of ownership of SCF No.267, the copies of the same are attached for perusal. But after the agreement, when the applicant Mahinder Singh inquired at his own level by going to the office of GLADA, then it was found that the above said SCF No.266 and 267 are not under the ownership of Kulwinder Singh and thereafter, the applicant presented the different-different documents which were showed by Kulwinder Singh at the time of agreement, on that the officials present in the GLADA office told orally that the documents which have been presented with regard to the ownership of Kulwinder Singh with regard to SCF No.266-267 are fake. Thereafter, Mahinder Singh talked about this with Taranjit Singh and Kulwinder Singh, then Taranjit Singh executed the agreement with regard to compromise on dated 09.06.2023 that they will return the amount received in lieu of the agreement to the applicant within 4 months. The copy of the compromise is attached for perusal on that there are signatures of Kulwinder Singh as a executant, Upjit Singh and Jasdeep Singh as guarantor and Taranjit Singh as witness but the opposite party despite passing the time of four months have only returned an amount of 50,00,000/- from the rest of the amount and during this Taranjit Singh in connivance of Kulwinder Singh, Jasdeep Singh and Upjit Singh showed one Plot measuring 400 sq. yards and plot measuring 1200 sq. yards and Taranjit Singh, Kulwinder Singh Bharaj, Upjit Singh, Jasdeep Singh in connivance of each other got executed the registry of the plot measuring 400 sq. yards bearing Vasika No.2023/24/101/1/9114 dated 14.09.2023 from Baljit Singh in favour of Amarpal Singh son of applicant Mahinder Singh, in that Harnek Singh and Gukul Chand signed as witness, the copy of the same is attached for perusal. After the execution of the registry, when the applicant Mahinder Singh went to get construct the boundary wall and to install the banner on the plot measuring 400 sq. yards, then the other*



*purchaser of the plot ie. GABA Property dealer, Rajguru Nagar, Ludhiana told to the applicant, that the above said plot has been sold to some NRI. Taranjit Singh, Kulwinder Singh Bharaj, Upjit Singh, Jasdeep Singh, Sandeep Singh, Gokul Chand Numberdar Dhandran, Mohan Singh, Satnam Kaur, Parkash Kaur, Baljit Singh and Harnek Singh have received the money at different-different time from the applicant Mahinder Singh at the time of the deal of the plot of 400 sq. yards and they have also grabbed the amount given for the sale of the above said plot. During the inquiry it has also come in the light that F.I.R. No.03 dated 08.01.2024 under Sections 420, 465, 467, 468, 471, 120-B of I.P.C. is registered at Police Station Model Town, Ludhiana and against the above said Upjit Singh etc. with regard to sell the SCF of GLADA on the basis of the forged documents, which is under investigation. It has come in light during the enquiry from the perusal of the above said facts that the opposite party Taranjit Singh, Kulwinder Singh Bharaj, Upjit Singh, Jasdeep Singh, Sandeep Singh, Gokul Chander Numberdar Dhandran, Mohan Singh, Satnam Singh, Parkash Kaur, Baljit Singh and Harnek Singh under the well planned conspiracy and by preparing the forged documents of SCF No.266 and 267 area Phase-2. Dugri and of one plot area 400 sq. yards situated at Village Sunet Ludhiana and by executing the registry in favour of the applicant have received total amount of ₹ 2,91,68,824/- and by returning an amount of 50,00,000/- from that and have committed the fraud by grabbing the rest of the amount ie. ₹ 2,41,68,824/-. It is recommended to investigate the matter after registration of F.I.R. against them under Sections 420, 465, 467, 468, 471, 120-B of L.P.C. Apart from them, if role of any other person or the employee of GLADA comes in light then the appropriate action would be taken on the basis of the facts. If it is approved then the appropriate order may be passed to SHO Police Station Dugri, Ludhiana to investigate the matter after registration of the F.I.R. under Sections 420, 465, 467, 468, 471, 120-B of I.P.C. against opposite party Taranjit Singh son of Satnam Singh, Kulwinder Singh Bharaj son of Kundan Singh, Upjit Singh son of Harminder Singh Jasdeep son of Surinder Singh, Sandeep Singh (Worker), Gokul Chander Numberdar,*



*Mohan Singh, Masuri Singh Numberdar, Satnam Kaur, Parkash Kaur, Baljit Singh son of Didra Singh and Harnek Singh Numberdar.'*

3. **Contentions**

**On behalf of the petitioner**

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case by concocting a false story. He submits that a case related to property transaction meaning thereby that it is a civil matter has been given criminal colour. It is further submitted that out of alleged amount, amount of Rs.50,00,000/- had been returned to the complainant on 09.06.2023.

**On behalf of the State**

On the other hand, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record. According to which, the petitioner is behind bars for almost 06 months 09 days.

Learned State Counsel on instructions from the Investigating Officer opposes the prayer for grant of the concession of regular bail on the ground that it is a case of duping the innocent buyer of an amount of Rs.2,41,68,824/- by selling them SCF No.266 and SCF No.267 measuring to 158.58 sq. yards situated at Phase-2 Dugri, Ludhiana, on the basis of fake documents, without any ownership in the name of the petitioner. The petitioner is a signatory to the forged and fabricated documents and being the kingpin of the fraudsters in selling GLADA properties on the basis of fake ownership documents stands further reflected from the fact that after getting caught and returning Rs. 50,00,000/- again indulged in the same act by selling a 400 sq.



yards plot vide sale deed dated 14.09.2023, which was found to be sold already. He informs the Court that in the present FIR challan stands presented on 18.05.2024.

4. **Analysis**

From the above case it can be culled out that learned State counsel has no answer to the query made by the Court regarding the forged documents and apart from that it is a dispute arisen out of transaction made in lieu of property whereby the same was alleged to have been sold for the second time inviting criminal liability wherein the nature of dispute is civil.

Learned State counsel has failed to show any incriminating material to support the allegations against the petitioner that the sale deed got registered on the basis of certain forged documents but which are those documents has not been ascertained. Even otherwise, the petitioner is already in custody for 06 months 09 days and there is no other case pending against him meaning thereby he is not a habitual offender, and as per the principle of the criminal jurisprudence, no one should be considered guilty, till the guilt is proved beyond reasonable doubt, whereas in the instant case, challan stands presented on 18.05.2024 and out of 25 prosecution witnesses, none has yet been examined which is sufficient for this Court to infer that the conclusion of trial is likely to take considerable time and detaining the petitioner behind the bars for an indefinite period would solve no purpose.

Reliance can be placed upon the judgment of the Apex Court rendered in “*Dataram versus State of Uttar Pradesh and another*”, 2018(2) *R.C.R. (Criminal) 131*, wherein it has been held that the grant of bail is a



general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

*“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.*

*3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.*

*4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the*



*satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.*

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658*

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nimesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also*



*made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.*

*7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.”*

Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in “Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna”, (1980) 1 SCC 98. Besides this, reference can be drawn upon that the pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. **Decision:**

In view of the aforesaid discussions made hereinabove, the petitioner is hereby directed to be released on regular bail under Section 483



CRM-M-37411-2024

14

BNSS, 2023 on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)  
JUDGE

04.09.2024

*Sangeeta*

|                                   |               |
|-----------------------------------|---------------|
| <i>Whether reasoned/speaking:</i> | <i>Yes/No</i> |
| <i>Whether reportable:</i>        | <i>Yes/No</i> |