2024:PHHC:094681

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-46961-2023 (O&M)
Date of decision: 29.07.2024

Dinesh Sharma **...Petitioner**

Versus

State of Harayna **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Harsh Mehla, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. *(Oral)*

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 1186 dated 10.12.2019, registered under Sections 120-B, 23, 24, 405, 406, 415, 418, 420, 463, 465 and 468 of IPC (Sections 23, 24, 405 and 415 of IPC deleted later on) at Police Station Gurgaon Sadar, District Gurugram.

2. The aforementioned FIR had been registered against the petitioner and co-accused on the basis of a complaint filed on behalf of Allahabad Bank, Branch Rajiv Colony, Gurugram alleging therein that on 21.04.2016, Ram Mehar Singh had obtained a home loan of Rs. 31 Lakhs from the complainant bank for purchasing a flat from M/s Asian Developers Limited. The petitioner was the authorised representative of M/s Asian Developers Limited. On the representation made by M/s Asian Developers

Limited and Ram Mehar Singh that M/s Saera Auto India Pvt. Ltd, which has a good valid equitable marketable title and has entered into a joint venture with M/s Asian Developers Limited to develop a property and a flat was going to be sold to Ram Mehar Singh, the complainant bank sanctioned a loan of Rs. 31 Lakhs to co-accused Ram Mehar Singh. Co-accused Ram Mehar Singh was bound to pay Rs. 29,600/- every month as equated monthly installment for 354 months continuously towards repayment of the said loan. However, he did not pay the installments regularly and subsequently, he completely stopped the payment of installments. On enquiry, it was found that builder in conspiracy with borrower and land owner did not use the money for the purpose mentioned above and in a pre-planned manner siphoned off the public money and cheated the complainant bank. The bank sent its officials at the site of the project and found that project is abandoned at incomplete stage. Legal action was prayed for against the culprits. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 06.12.2022. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved applications before the trial Court for grant of regular bail but the same had been dismissed. Thereafter, he moved an application before the Court of learned Additional Sessions Judge, Gurugram, which too had been dismissed.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was only an authorized

representative of M/s Asian Developers and he has been involved in this case on the basis of his association with the said firm. The complainant-bank has already availed its legal remedy before the Debt Recovery Tribunal. The ingredients of offences under Sections 405, 406, 415, 418 and 420 of IPC are not made out against the petitioner as the loan amount disbursed by the bank was utilized towards the construction of the project. Even the allottee had also received the occupational certificate on 30.01.2017 i.e prior to registration of the present FIR, which shows the bona fide intention of the petitioner to complete the said project. Investigation has since been completed and *challan* has been presented in the Court. The trial is likely to take a long time. Vide order dated 15.04.2024, the petitioner, after undergoing incarceration for a period of 01 year, 10 months and 18 days, had been granted concession of interim bail, which is still continuing. The petitioner has never misused the concession of interim bail. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the petitioner in connivance with co-accused, had defrauded the bank. There are serious and specific allegations against him. He is involved in some other similar FIRs. Hence, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record very carefully.

6. The petitioner, who is the authorized representative of the M/s Asian Developers Limited, is alleged to have facilitated co-accused Ram Mehar Singh in obtaining a home loan of Rs. 31 Lakhs from the complainant-

bank. The co-accused had subsequently stopped making monthly installments against repayment of the said loan. The allegation against the petitioner is that he has cheated the bank as well as the purchaser because he could not deliver the project in time as committed by them. Some other similar FIRs are also shown to have been registered against the petitioner. This Court, vide order dated 15.04.2024, while noticing the period of the petitioner, had granted him concession of interim bail, which he is still availing. The investigation has since been completed and *challan* has been presented in Court. The trial is likely to take time, being Magisterial one. There is no allegation that the petitioner has misused the concession of interim bail in any manner whatsoever. Therefore, keeping in view the aforesaid facts and circumstances, I am of the considered opinion that no useful purpose would be served by detaining him in custody again.

7. Accordingly, the present petition is allowed. The order dated 15.04.2024, granting interim bail to the petitioner, is confirmed and his interim bail is converted into regular bail, pending trial.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

29.07.2024 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*