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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-56833 of 2023

Date of decision:- 24.01.2024

JAI SHARMA

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Dinesh Kumar Jangra, Advocate
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

Mr. Manish Soni, Advocate, for the complainant.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular in the following case (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
328	16.06.2023	406, 420, 120-B IPC	Model Town, Rewari, Haryana.

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner is not signatory to the agreement to sell in dispute

dated 24.04.2017 which was effected between the complainant and Urvashi Sharma i.e. mother of the petitioner. He submits that petitioner was arrested on 04.10.2023 and since then he is in custody. He submits that challan has already been presented in Court. He submits that the present civil dispute arising out of agreement to sell has been converted into criminal one by the complainant in connivance with the police and as such he prays for grant of concession of bail to the petitioner.

3. Per contra, learned State counsel assisted by learned counsel for the complainant have submitted that the petitioner although not a signatory to the agreement to sell but amount of ₹20 lacs was transferred in his account and as such he is not entitled to concession of bail. However, filing of the challan was admitted.

4. After considering the rival contentions and perusing the record, it transpires that dispute pertains to the agreement to sell dated 24.04.2017 entered into between the mother of petitioner namely Urvashi Sharma and complainant along with his brother for the sale of her share of the property. The Sale Deed was supposed to be executed on or before 30.09.2017. A perusal of agreement to sell (Annexure P-2) would reveal that the petitioner is not a signatory there to. On the alleged forfeiture of the earnest money the father of petitioner namely Vinay Kumar Sharma had issued cheque for refund of earnest money which however was dishonoured and a complaint regarding the same is already pending under Section 138 of the Negotiable Instrument Act. The role attributed to the petitioner is that part of earnest money amounting to ₹20 lacs was deposited in his account. The challan has already been presented in court after completion of investigation and the

petitioner being in custody since 04.10.2023, is no required for further investigation, his criminal liability, if any, would be ascertained after conclusion of trial, in the present case triable by the Court of Magistrate, which may take sufficient long time and no useful purpose would be served by keeping the petitioner behind bars any longer.

5. Resultantly, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.
6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

24.01.2024

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i) Whether speaking/reasoned?

Yes/No

ii) Whether reportable?

Yes/No