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

CRM-M-2858-2025
Reserved on: 04.03.2025
Pronounced on: 17.03.2025

Sher Singh ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Sharma, Advocate,
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0283	24.08.2023	Sector-5, Gurgaon, Distt. Gurugram	120-B, 420, 467, 468, 471 IPC (Section 201 IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the translated copy of FIR annexed with the bail petition as Annexure P-1, which reads as follows:

> *"TO. PRIME MINISTER OFFICE SOUTH BLOCK, NEW DELHI 110011 Subject: Application for registering case against (i) Sher Singh son of Ram Chandra r/o House No. 332 Hospital New Delhi 110039 (Mob.72920xxxx/91368xxxx) (ii) Naveen Kumar s/o Shri Ramesh Kumar r/o House No. 29-B, Ashok Vihar, Phase-3, Gurugram (Mob. 99118xxxx) at present r/o 1373/1, Dayanand Colony Gurugram, 87450xxxx Virendra (iii) Neeraj Arora s/o Shri Gobind Das Arora r/o Naya Bazar House No.A-40 Najafgarh New Delhi 110043 (Mob.99118xxxx) (iv) Naib Tehsildar/Sub Registrar Gurugram (v) Sarjeet Patwari MCG (was OUT SOURCES MCG Patwari since 2012) (Mob. 97281xxxx) (vi) Mahendra Sharma son of Shri Gangadhar resident of House No.77 Ashok Vihar Phase-3 Gurugram and others for committing fraud by executing forged*

sale deed bearing vasika No.33120 dated 07.03.2012 by hatching criminal conspiracy and preparing forged documents. Honorable Sir, the applicant humbly requests as under: 1. That the applicant had given an application to the Police Commissioner Gurugram against the above accused, bearing diary number is 16396/CP/2022 DATED 20.10.2022, which is pending in Police Station-Sector 5, which is being investigated by ASI Pradeep Kumar. The investigating officer is not taking any action even in serious cases like execution of forged sale deed. Therefore, the applicant wants to get registered a case against the persons involved in the execution of forged sale deed and get them arrested as soon as possible, otherwise the accused will flee from India. Therefore, this application is being submitted so that police should take action as soon as possible. 2. That the applicant has a house no. 96/21/3-12 Biswa of 200 sq. yard in Gurugram which is in the possession of the applicant since 16.12.2012 through Will No. 15 dated 12.5.1983, mutated in her name vide mutation no.49451 sanctioned on 16.12.2012. The documents of the house are enclosed with the application. 3. That the above house has been in the name of deceased Heera Lal continuously in the records of Municipal Corporation Gurugram since the year 2008-09 and in the name of the applicant since 2017-18. 4. That the applicant's house has been duly registered in Khasra No.3918/2265 in the revenue records and mutation no. 49451 has been sanctioned on 16.12.2012. 5. That on 25.2.2020, a person from village Gurugram telephonically informed the applicant that some miscreants have broken the lock of her house and have occupied it, regarding which the applicant gave an application to (DCP) on 26.2.2020 and 29.2.2022 against the culprits, but the police of Police Station: Sector 5 did not take any action against them. Thereafter the applicant filed an application no. 1428 dated 13.3.2021. bearing diary no. 173-5P dated 16.2.2021, Police Station: Sector 5, diary no. 275-SP dated 15.3.2021. 5710 D dated 29.9.2021, 1224SP dated 30.9.2021 and application no. 661-5A dated 15.7.2021, submitted to Incharge, Police Station-Sector 5 and higher officials, for taking action against the accused involved in execution of forged sale deed. 6. That under a well thought out conspiracy, accused Sher Singh, despite not being the owner, sold the applicant's plot/house, which is registered in Khasra No. in the revenue records, by showing the plot/house to be within red line and after getting a false report made from the Tehsildar and Patwari of Municipal Corporation, and got the forged sale deed registered of the said house in favour of Naveen Kumar son of Ramesh Kumar bearing vasika No. 33120 dated 7.3.2012. 7. That the investigation of the above applications was conducted by SI Ratan Pal.

Police Station: Sector 5, Gurugram, wherein the applicant and her husband were called to the police station by the investigating officer several times and the investigating officer personally questioned Naveen Kumar, Neeraj Arora, Sarjit Patwari, Mahendra Sharma, Virendra Kumar and their statements were recorded and collective statements of the people living around the house were also recorded, but during the investigation the investigating officer came to know that Sher Singh by preparing forged documents and by impersonating as the real owner, in connivance with Sarjit Patwari Lambardar Tehsildar sold the applicant's house to Naveen Kumar, copies of those statements are enclosed. 8. That instead of registering a case against the accused on the applicant's application, the investigating officer rejected the applicant's application saying that the applicant has not come present and joined investigation despite being called repeatedly, whereas the investigating officer had recorded her statement and questioned, which bears her signature. 9. Instead of registering a case. the investigation officer called Naveen Kumar to the police station and got the possession of the applicant's house back to her but did not registered any case against the accused for fraudulently selling the house on the basis of forged sale deed, despite the fact that Sher Singh son of Ramchandra did not have any document to prove his ownership for executing sale deed. 10. That during the investigation, Sarjit Patwari and Neeraj Arora admitted in their statements that Sher Singh has made us do this wrong deed by deceiving and luring us. 11. That in this regard Naveen Kumar gave his affidavit in writing in the police station regarding giving back possession to the applicant that stated that Sher Singh and others have committed fraud but Naveen Kumar has not taken any legal action against Sher Singh till date, which means that both are in collusion with each other, a case should be registered against all the persons (above mentioned accused) involved in preparing the above mentioned forged documents and executing forged sale deed. 11 That in executing the above mentioned forged sale deed, the fake owner Sher Singh, the buyer Naveen Kumar, the Patwari Tehsildar who reported on the application and the witnesses of the registered sale deed, all are involved. 12. That when the applicant obtained information about her application through RTI, it was found that instead of registering a case against the accused, the investigating officer Ratan Pal dismissed the application of the applicant saying that the applicant did not came present, despite repeated calling. Therefore, it is requested that legal action be taken against the above accused for fraudulently selling the applicant's house by showing it to be within red line in connivance with the Patwari, executing forged sale deed *and forging documents and for taking illegal occupation and strict legal action be taken against all the accused involved in the criminal conspiracy. xxx xxx"*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

"19. That the petitioner had played active role in the commission of present crime. He is the prime accused in the present case. He along with the co-accused Sarjeet hatched a criminal conspiracy and had prepared forged documents related to the property in question and on the strength of the same, the petitioner had fraudulently got executed the sale deed of the said plot to the complainant party against a consideration of Rs.18 lakhs on 07.03.2012. The petitioner was very well aware that he was not having any concern with the property in question and that the property in fact belonged to Phulwati and despite that, he had opted to get executed the sale deed on the strength of the forged documents.
20. That the statement of witness is yet to be recorded. The petitioner, in the event of being granted the concession of bail, may very well dissuade the witness from disclosing the truth and may flee from justice as well and given the circumstance, the grant of bail to the petitioner in said circumstances cannot be said to be justified.
21. That keeping in view the aforementioned facts and circumstances of the case, particularly keeping in view the nature of the allegations and the gravity thereof and further in the light of the fact that the petitioner had played an active role in the commission of the crime complained off, there are no circumstances, which may warrant the grant of concession of regular bail to him and hence, the present petition is liable to be dismissed, being devoid of merits."

REASONING:

7. Allegations of fraud are against the petitioner. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 8 of the bail petition, the petitioner has been in custody since 17.06.2024. As per the custody certificate dated 03.03.2025, the petitioner's total custody in this FIR is eight months and

fifteen days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner’s complying with the following terms.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

15. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

17.03.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.