2025:PHHC:153799

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CRM-M-44540-2023
Date of decision: 07.11.2025

SANDHURI LAL MITTAL ......Petitioner

VERSUS

STATE OF PUNJAB ....Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - Mr. Vinod Ghai, Senior Advocate and
Mr. Arnav Ghai, Advocate and
Ms. Kashish Sahni, Advocate and
Mr. Nischal Chetanaya Manchanda, Advocate
for the petitioner.

Ms. Savi Nagpal, Asst. A.G. Punjab.

Mr. Vishal Sharma, Advocate and
Mr. Shantanu Singh, Advocate
for Intervener.

Mr. Sandeep Suri, Advocate and
Mr. Rohit Suri, Advocate,
Mr. Divyam Suri, Advocate and
Mr. Samarth Suri, Advocate
for Axis Bank.

Mr. Vishal Sodhi, Advocate
for victim/respondent.

Mr. Varun Mittal, Advocate
for victim-Rajesh Mittal.

Mr. Satish Kumar Saini, SPA
for victim-Sonia.

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VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Section 439 of Cr.P.C (now Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023), for the grant of regular bail in case bearing FIR No. 217 dated 23.09.2015, registered under Section(s) 420, 465, 467, 468, 471, 474 and 120-B of the Indian Penal Code, 1860 at Police Station Zirakpur, District SAS Nagar.

2. The complainant, Ramesh Kumar Singla, son of Shri Purshotam Das Singla, resident of Flat No. 101, Tower B-7, Surya Tower, Zirakpur, Tehsil Derabassi, District S.A.S. Nagar, Punjab, lodged the present complaint alleging large-scale financial fraud by the builder of Surya Infrastructure, VIP Road, Zirakpur. It is stated that the complainant had booked the said flat by paying a sum of ₹3,00,000 to Surya Infrastructure, and was issued an allotment letter on 15th July 2010. The balance consideration was duly paid through a loan obtained from IDBI Bank, whereafter the complainant was handed over possession of the flat in April 2013. On 9th July 2015, a public notice came to be published by Oriental Bank of Commerce (OBC) in the Hindustan Times newspaper, disclosing that the builder of Surya Towers had availed a loan of ₹5 Crores from OBC Bank on 23rd November 2012. Subsequently, on 9th September 2015, a notice was pasted outside the society by the said bank, intimating the residents about the loan transaction. Upon further inquiry, it transpired that the builder had fraudulently obtained multiple loans against 54 flats within the same society, amounting to an aggregate of approximately ₹18 Crores, by using the names of fictitious persons. The complainant apprehends that the builder may again attempt to raise loans

fraudulently by using ownership documents of his flat and has, therefore, sought immediate legal action against the builder and his associates, namely Sandoori Lal Mittal, Ram Bhuj Mittal, and Brij Lal Mittal, all sons of Kapoor Chand, residents of House No. 1702, Sector 21, Panchkula. The complainant has further prayed for the confiscation of the passports, driving licences, PAN cards, and voter identity cards of the accused persons, so as to prevent their abscondence from the city or the country after commission of the alleged fraud.

3. Learned Senior Counsel appearing on behalf of the petitioner culled out his arguments is as under:

i) That the stratum of the allegations against the petitioner is to the effect that being a developer, he had allegedly executed multiple sale transactions in respect of certain residential flats. It is alleged that 48 dwelling units were purportedly sold twice, while 6 dwelling units were sold thrice. Consequently, it is the case of the prosecution that the petitioner received monetary consideration from 114 individuals in respect of the very same dwelling units, both through direct payments made by the allottees as well as through tripartite agreements executed with banking institutions concerning the said flats.

ii) It is submitted that the petitioner is in custody since 12.03.2023 and has already undergone an actual custody of 02 years and 08 months in a magisterial trial.

iii) It is further submitted that out of a total of 64 witnesses cited by the prosecution, only 6 witnesses have thus far been examined. The case, it is stated, was fixed for recording of prosecution evidence on 03.02.2025, subsequent to the framing of charge on 11.11.2024. The statutory period of 60 days, reckoned from the date first fixed for recording of prosecution evidence, has long since expired. Consequently, the beneficial provisions of Section 437(6) of the Code of Criminal Procedure would squarely apply and enure to the advantage of the petitioner. It is contended that the said provision is a legislative embodiment of the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India, and that such a right must be accorded due sanctity and effect.

iv) Learned counsel for the petitioner further submits that the petitioner has been making bona fide and earnest efforts to amicably settle the disputes with various house owners arising out of the property transactions in question. This fact, it is argued, stands fortified by the circumstance that the principal complainant, at whose instance the FIR in the present case was registered, has already deposed before the Court that he no longer harbours any grievance and does not wish to pursue the matter or depose against the petitioner. It is further submitted that several other homebuyers have likewise deposed that they do not wish to depose against the petitioner. The learned counsel contends that these developments unmistakably demonstrate the petitioner’s genuine intent to resolve the matter and make amends. However, owing to his present financial constraints, allegedly resulting from misappropriation and consequent depletion of funds, the process of settlement has not yet been fully accomplished.

4. Counsel for the respondent-State assisted by Mr. Vishal Sharma, Advocate and Mr. Shantanu Singh, Advocate for Intervener; Mr. Sandeep Suri, Advocate and Mr. Rohit Suri, Advocate, Mr. Divyam Suri, Advocate

and Mr. Samarth Suri, Advocate for Axis Bank have collectively contended that the petition deserves to be dismissed for the following reasons:

(i) That the petitioner had earlier approached this Court seeking the concession of anticipatory bail; however, the said petition was dismissed by this Court on 25.10.2016. It is further submitted that the petitioner was thereafter declared a proclaimed person on 03.11.2017 and remained so for a period of nearly five and a half years until his arrest on 12.03.2023. The respondents further contend that certain co-accused of the petitioner, who had been granted the concession of bail, have since absconded and have consequently been declared proclaimed offenders.

ii) Learned counsel further contends that the petitioner, with a deliberate and fraudulent intent, entered into multiple agreements with numerous innocent investors and homebuyers, and fabricated documents with the objective of inducing both the financial institutions and the prospective purchasers to part with their hard-earned money. As a result of such deceitful acts, it is submitted, both the buyers and the banks stand defrauded, having disbursed substantial sums to the petitioner, while the underlying properties continue to remain encumbered with multiple liens and mortgages. The counsel submits that this has left the victims financially devastated and the assets in question entangled in layers of illegality and fraud.

iii) It is contended that the petitioner does not merit the grant of concession of bail, as such relief would enable him to evade the due process of law. Learned State Counsel further submits that even though 06 witnesses have deposed, however, 06 witnesses have been given up and therefore only 52 witnesses remain to be examined out of the total of 64 witnesses.

5. Learned counsel vehemently contend that there exist numerous inconsistencies and contradictions in the petitioner's version concerning the execution of the relevant documents. It is alleged that several homebuyers had been induced to sign blank documents, which were thereafter misused by the petitioner, who represented them as original conveyances or agreements, despite having already created liens and encumbrances upon the same properties. It is thus submitted that the petitioner's claim of being in a legitimate position to enter into settlements with the homebuyers is wholly misleading and devoid of bona fides, being based upon documents tainted by fraud and concealment.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present petition.

7. The undisputed facts emerging from the record reveal that the present dispute pertains to the issue of overselling or multiple sale transactions in respect of certain flats developed by the petitioner. The controversy, as it stands, relates to fifty-four out of approximately two hundred and eight residential units forming part of the project undertaken by the petitioner. Though learned counsel for the petitioner has contended that disputes with several homebuyers have already been amicably resolved and that the petitioner has repaid the construction loan availed from the bank, the aspect of multiple or overlapping sales is not denied in its entirety. What, however, assumes significance is that the present case pertains to a magisterial trial, and that the petitioner has remained in custody since 17.03.2023, thereby having undergone an actual incarceration of more than two years and eight months.

It is also a matter of record that fifty-two out of sixty-four prosecution witnesses are yet to be examined. Furthermore, since the petitioner has been in custody throughout, any delay in the completion of the trial cannot reasonably be attributed to him. It is trite that in matters concerning custodial detention, while the gravity of the offence is undoubtedly a relevant consideration, it cannot, by itself, justify indefinite incarceration. The process of trial cannot be allowed to assume the character of punishment. The right to a speedy trial is an intrinsic component of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Consequently, prolonged pre-trial detention, particularly in a magisterial case where the trial is yet to conclude, creates a legitimate ground for the petitioner to seek enlargement on bail.

8. Further, Section 437(6) of the Code of Criminal Procedure confers a statutory right upon an accused person in custody to seek the benefit of bail where the trial, after the framing of charge, is not concluded within a period of 60 days from the date first fixed for recording of evidence. The provision further mandates that, in the event of such concession being declined, the Court must record specific reasons in writing for doing so. In the present case, the reasons cited by the respondents for denying the benefit of Section 437(6) Cr.P.C. are premised upon the antecedents of the petitioner namely, that he had remained absconding for a period of approximately five and a half years after the dismissal of his earlier bail application and had been declared a proclaimed offender, and further, that his co-accused, who were granted bail, have since absconded. Prima facie, while such circumstances may be relevant considerations, they cannot, by themselves, outweigh the

factual matrix presently obtaining. It is noteworthy that the petitioner is now in continuous custody and that his detention during the pendency of a protracted magisterial trial cannot be justified merely on the basis of past abscondence. The legal position as it stands today does not preclude the continuation or conclusion of a trial in the absence of an accused, subject to compliance with the procedure prescribed by law. Thus, the process of criminal adjudication is not rendered defunct merely on account of the apprehension that an accused may abscond. Such apprehensions, if accepted as determinative, would defeat the very object of Section 437(6) and could, in theory, be advanced against every accused person seeking bail. Even though it is not disputed that the petitioner had been declared a proclaimed offender for a certain period, the record reveals that he had approached this Court earlier by way of CRM-M-24990-2017, seeking quashing of the FIR, which was dismissed on 03.02.2018. It is not the case of the State that the petitioner had fled the country or gone into concealment. The failure of the petitioner to appear before the Court during that period appears, prima facie, to have been met with a lack of effective action on the part of the investigating agency in securing his presence. A mere lapse or collusive inaction by the prosecution in apprehending the accused cannot, therefore, be construed as conclusive proof of his propensity to evade the process of law. It is also well settled that, at the stage of considering a bail application, the Court is not expected to undertake a minute or microscopic examination of the evidence or to assess the probative value of the material on record. Having regard to the fact that the case pertains to a single transaction forming part of one trial, and considering that the petitioner has already undergone actual incarceration for more than two years and eight months, the denial of bail would, in the circumstances, amount to a punitive deprivation of liberty prior to conviction. The apprehensions expressed by the prosecution can, in any event, be adequately addressed by imposing stringent and appropriate conditions upon the petitioner to ensure his continued participation in the proceedings. In view of the foregoing discussion, this Court deems it just and appropriate to direct that the petitioner be enlarged on regular bail, subject to his furnishing of requisite bonds and sureties to the satisfaction of the learned Trial Court.

9. The instant petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing of heavy bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate, concerned.

10. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

11. The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
NOVEMBER 07, 2025 **JUDGE**
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No