

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-41019 of 2017
Date of Decision: 07.11.2017

Birendra Chaudhary

....Petitioner

VERSUS

Central Bureau of Investigation, Chandigarh

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S.Cheema, Sr. Advocate
with Mr. Rajiv Kumar Trikha, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. RCCHG2017A0015 dated 17.07.2017 registered for offences punishable under Sections 7, 13 (2) read with Section 13 (1) (d) of Prevention of Corruption Act, 1988 by CBI, ACB CHG, District Chandigarh.

Heard.

Notice of motion.

On asking of the court, Mr. Sumeet Goel, Advocate Retainer counsel, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

The petitioner was arrested in a trap laid by CBI, Chandigarh while demanding and accepting ₹1 lac i.e. ₹25,000/- each from complainant for his behalf and on behalf of three other saw mill owners.

Learned counsel appearing for respondent-CBI submits that

after completion of investigation challan has been presented in Court. He,

however, opposes the bail application of petitioner on the ground that he is also involved in another case registered against him, for offence punishable under the provisions of Prevention of Corruption Act and Section 120-B IPC, by CBI, ACB Mumbai, when he was posted as Deputy Conservator of Forests, Dadar and Nagar Haveli.

Learned counsel for the petitioner submits that in the case registered against the petitioner at Dadar and Nagar Haveli about 7 years back, charge-sheet was filed and the petitioner has pleaded not guilty but the prosecution has not been able to conclude its evidence despite grant of enough opportunities by the trial Court. In this case, the petitioner has been falsely implicated by complainant for his refusal to allow the licence for three saw mills. CBI after completion of investigation has presented the challan on 12.09.2017. However, the sanction for prosecution of petitioner has not been received so far. As to whether sanction will be allowed to CBI in facts of the case and keeping in view the fact that conclusion of trial will take considerably long time as it has taken in the case registered against the petitioner at Dadar and Nagar Haveli, no purpose will be served by keeping him behind bars.

Trap in this case was laid on 17.07.2017. The petitioner is in custody for the last more than 3½ months. This fact is not denied that sanction for prosecution the petitioner has not so far been allowed in this case. Keeping in view the fact that case registered against the petitioner at Dadar and Nagar Haveli has not been decided so far despite expiry of period of more than seven years, as such, the same cannot be looked into at this stage, while deciding the bail application.

In view of above but without expressing any opinion on merits

of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Birendra Chaudhary is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

November 07, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No