

CRM-M-44269 of 2016 :1:

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

CRM-M-44269 of 2016

Date of decision: 02.03.2017

Gurjit Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

* * *

Present : Mr. Harinder Pal Singh Ishar, Advocate
for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. Ranjan Lakhanpal, Advocate
for the complainant.

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DEEPAK SIBAL, J.(ORAL)

Status report by way of affidavit of Deputy Superintendent of Police, Sub Division Goindwal Sahib, District Tarn Taran filed by the learned State counsel in Court today is ordered to be taken on record. Copy of the same has been handed over to the learned counsel for the petitioner.

Through the present petition filed under Section 439 Cr.P.C., the petitioner seeks regular bail in FIR No.22, dated 09.02.2013, registered under Sections 420/ 506 IPC, at Police Station Sadar Tarn Taran, District Tarn Taran.

The allegations against the petitioner are that he has committed fraud by taking Rs.12 lacs from the complainant on the pretext of sending him abroad.

Seeking regular bail for the petitioner, learned counsel for the

petitioner submits that the petitioner has been falsely implicated in the case; the complainant is an ex-employee of the company in which the petitioner was the Managing Director against whom, much prior to the lodging of the present FIR the petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short the Act); the present FIR was got registered by the complainant as a counter blast to the complaint filed by the petitioner under the Act; a similar complaint had been made by the complainant to the Economic Offences Wing of the Chandigarh Police which was inquired into and in the same the petitioner was found innocent; the petitioner is in custody for over one year; out of 12 prosecution witnesses none has been examined so far and therefore, the trial is not likely to conclude in the near future.

In support of his case, learned counsel for the petitioner relies upon orders passed by this Court dated 28.11.2016 and 16.12.2016 in the case of the petitioner himself in CRM-M-41094 of 2016-Gurjit Singh Vs. State of Punjab and CRM-M-37021 of 2016-Gurjit Singh Vs. State of Punjab.

Learned State counsel as also learned counsel for the complainant oppose the grant of bail on the ground that there are several other similar cases pending against the petitioner and that on an earlier occasion, the petitioner had been declared a proclaimed offender.

It is not disputed that the petitioner has been in custody for over one year. Till date none of the 12 witnesses cited by the prosecution have been examined and therefore it is unlikely that the trial would conclude in the near future. The fact that the FIR has been got lodged by the complainant after an inordinate delay of about five years after the

occurrence also cannot be lost sight of. The same allegations as in the FIR were made through a complaint filed earlier by the complainant before the Chandigarh Police which was inquired into and in which the complainant was found to be an employee of the company of which the petitioner was the Managing Director and the petitioner was found to be innocent.

The afore referred orders passed by this Court also support petitioner's case. The operative part of the order dated 16.12.2016 reads as under:-

“Appreciating the submissions, admittedly petitioner is in custody for more than nine months. The irrefutable and unrebutted documents placed on record by way of (Annexures P2, P3, P4 and P19 Colly) and the fact that initially on similar allegations, the police of Chandigarh had filed the complaint of complainant and that the occurrence as per the FIR in question (Annexure P1) is alleged to have taken place from 01.01.2002 to 2008 and thus, after almost 11-6 years, present allegations have been levelled and thus, a distressing feature for the prosecution in view of the strong documentary evidence to bring forth the conduct of the complainant which is elicited from these documents and the fact that the investigation and trial will take its own time and no useful purpose will be served by keeping the petitioner in custody, impels this Court to allow the prayer made. Accordingly, the petitioner is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Tarn Taran. The petition stands disposed off accordingly.”

Keeping in view the above, I am of the opinion that the petitioner deserves to be admitted to regular bail.

Bail to the satisfaction of the trial Court.

Nothing observed herein above shall be considered to be an

expression of opinion by this court on the merits of the case.

During the period that the bail is granted to the petitioner, if he is found indulging in any criminal/illegal activity, it would be open to the State to move an appropriate application before the competent Court/this Court for cancellation of the bail granted to the petitioner through this order.

(Deepak Sibal)
Judge

March 02, 2017
rimpal

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>