

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

Sr. No.214

CRM-M No.6092 of 2017
Date of decision: 01.03.2017

Krishan

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Chand Ram Olla, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

Status report filed by the State in Court today, is ordered to be taken on record. Copy of the same has been given to the counsel opposite.

The present petition is the second one filed by the petitioner under Section 439 of the Criminal Procedure Code, 1973 (for short the 'Code'), seeking grant of regular bail in FIR No.815 dated 09.09.2016, registered under Sections 34, 380, 420, 454 IPC, at Police Station Hisar City, Hisar.

The FIR in which the petitioner seeks regular bail was got lodged by one Balwan Singh in which he alleged that amongst other documents, his cheque book had been stolen and out of which through three different cheques on different dates money had been withdrawn from his account. Such fact came to his knowledge when he received a message through a telephonic call from his Bank Manager to the effect that one Nishant son of Ashok Kumar was trying to withdraw money from his account. After receiving such information, when he went to the Bank, he came to know

that the petitioner had given that cheque to Nishant for getting encashed and that the petitioner was with Nishant at that time but apparently on seeing the complainant fled from the spot.

Investigation including CCTV footage, revealed that the petitioner alongwith others had indulged in theft for withdrawing money from the account of the complainant. Accordingly, a report under Section 173 of the Code was filed and the petitioner was sought to be prosecuted.

Learned counsel for the petitioner seeks regular bail for the petitioner on the ground that the complainant-Balwan Singh has appeared before the trial Court as PW-2 and deposed that he does not know who had stolen his cheque book or withdrawn money from his bank account. He has further deposed that he does not know the name of the person present in the Court who was the petitioner.

Opposing grant of regular bail to the petitioner, learned State counsel has submitted that the petitioner does not deserve regular bail merely on the ground that during the trial the complainant has not toed the line of the prosecution. He submits that CCTV footage and rest of the witnesses including the Investigation Officer are yet to be examined and the State is sanguine that it would prove its case in the trial. It is further submitted that the petitioner is a habitual offender and has on more than one occasion misused the concession of bail. The list of cases registered/pending against the petitioner alongwith stage of each of such cases as supplied by learned State counsel is as under:-

<i>Sr. No.</i>	<i>Detail of cases registered against the petitioner</i>	<i>Present stage of the case</i>
1.	FIR No.246 dated 02.06.2003 u/s Ex. Act PS City Hisar.	Acquitted on 10.12.2008.
2.	FIR No.93 dated 12.02.2007 u/s 309 IPC PS City Hisar.	Acquitted on 20.07.2008.

<i>Sr. No.</i>	<i>Detail of cases registered against the petitioner</i>	<i>Present stage of the case</i>
3.	FIR No.117 dated 30.1.2012 u/s Ex. Act PS City Hisar.	Sentence of fine Rs.1400/- on 08.02.2012.
4.	FIR No.476 dated 17.4.13 u/s Ex. Act PS City Hisar.	Sentence of fine Rs.200/- on 25.04.13.
5.	FIR No.1113 dated 11.9.2013 u/s Ex. Act PS City Hisar.	Under trial and fixed for 7.3.17 for DW in the court of Sh. Mohd. Sagir, JMIC, Hisar
6.	FIR No.159 dated 27.2.14 u/s Ex. Act PS City Hisar.	Sentence of fine Rs.10000/- on 17.04.14.
7.	FIR No.976 dated 02.11.2014 u/s 323, 341, 427, 506, 34 IPC PS City Hisar.	Under trial. Pending in the Ld. Trial Court of Sh. Mohd. Sagir, JMIC, Hisar and fixed for PW for 21.2.2017.
8.	FIR No.896 dated 23.7.15 u/s 20/61/85 NDPS Act, PS City Hisar.	Under trial. Pending in the Ld. Trial court of Sh. R.K. Jain, ASJ, Hisar and fixed for PW for 27.2.2017.
9.	FIR No.89 dated 05.02.2016 u/s 294, 323, 452, 506, 34 IPC PS City Hisar.	Under trial. Pending in the Ld. Trial Court of Sh. Ashish Sharma, JMIC, Hisar and fixed for 21.02.2017 for PW.
10.	FIR No.437 dated 13.5.16 u/s Ex. Act PS City Hisar.	Under trial. Pending in the Ld. Trial Court of Sh. Manpreet Singh, CJM, Hisar and fixed for presence for 31.03.2017.
11.	FIR No.708 dated 09.08.2016 u/s 457, 380 IPC PS City Hisar.	Under trial. Pending in the Ld. Trial Court of Sh. Manpreet Singh, CJM, Hisar and fixed for presence for 13.4.2017.

Merely on the ground that the complainant has turned hostile, the petitioner cannot be admitted to regular bail especially when on several earlier occasions he has misused the concession of bail. The afore-quoted list of cases clearly depicts the petitioner to be a habitual offender. The trial is still on in which several other witnesses are yet to be examined by the prosecution. Evidence including CCTV footage also remains to be produced.

In view of the above facts which are peculiar to this case, I am not inclined to grant the concession of regular bail to the petitioner. However, I feel that the ends of justice would be met by issuing a direction to the

prosecution to examine the remaining prosecution witnesses within two months from today. The trial Court is also requested to conclude the trial within three months from the next date fixed before it. This is of course subject to the petitioner's cooperation in the trial.

The petition stands disposed of in the above terms.

There is yet another aspect of the matter which I feel needs to be dealt with. On the instance of the complainant, the FIR was lodged wherein the petitioner was attributed a specific role. However, while appearing as a witness before the Court, the complainant has apparently taken a contradictory stand.

Let an affidavit be filed by the State whether or not for the afore-referred contradiction, the complainant needs to be proceeded as per law. Reasons for such decision be also given. The affidavit be filed within two weeks.

For compliance, adjourned to 04.05.2017.

(DEEPAK SIBAL)
JUDGE

March 01, 2017

Jyoti 1

- (i) Whether speaking/reasoned Yes/No*
- (ii) Whether reportable Yes/No*