

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

CRM-M No.15593 of 2018

Date of Decision: 21.09.2018

Emmanual Chinedo

....Petitioner

Versus

State of U.T. Chandigarh

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Parveen Chauhan, Advocate
for Mr. G.S. Wasu, APP for U.T. Chandigarh.

DAYA CHAUDHARY, J.

This petition has been filed by petitioner-Emmanual Chinedo under Section 439 Cr.P.C for grant of regular bail to him in case FIR No.372 dated 06.09.2017 registered under Sections 420, 467, 468, 471 IPC, 66(D) of the Information Technology Act, 2000 and under Section 14 of the Foreigner Act (added later on) at Police Station Sector 39, U.T. Chandigarh.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he has no concern with the alleged allegations. The petitioner is having no relation with the business carried out by the persons against whom the allegations have been levelled in the FIR. The petitioner is an employee and his services have been hired for delivering the seeds to the places as disclosed by whom he was employed. Learned counsel also submits that the petitioner is foreign national and is a permanent resident of Nigeria. He has come to India on

business VISA for doing work. He was searching for job and the petitioner was offered job. All the record is with the Investigating Agency or with the main accused by whom the petitioner has been employed. He further submits that during process of delivery of the seeds, the petitioner was arrested by the police authorities, whereas, he has no role to play. It is also the argument of learned counsel for the petitioner that the police authorities have not taken any action against those persons by whom the fraud has been played. The challan has been presented and nothing is to be recovered from the petitioner. Petitioner is not the beneficiary. Learned counsel also submits that the police authorities have recorded the evidence under Section 27 of the Indian Evidence Act in Hindi language (*Devnagri script*), whereas, the petitioner is a foreign national and is not well versed with Devnagri script. The entire challan has been prepared in Devnagri script. The amount, in lieu of selling of seeds, has been deposited in the account of the employer. The petitioner was arrested from Mumbai. At the end, learned counsel for the petitioner submits that co-accused of the petitioner, namely, Ravi Ashok Sonune has been released on regular bail vide order dated 08.01.2018 passed in **CRM-M No.48334 of 2017**. Petitioner is in custody since 07.09.2017 and no other case is pending against him. No useful purpose would be served by keeping the petitioner behind bars.

Learned counsel for U.T. Chandigarh has opposed the submissions made by learned counsel for the petitioner but he has not disputed the custody period as well as releasing of co-accused on regular bail. It has also not been disputed that no other case is pending against the petitioner.

Heard the arguments of learned counsel for the parties and have

also perused the contents of the FIR as well as other documents available on the file.

As per submissions made by learned counsel for the petitioner, the petitioner was not arrested at the spot and no recovery was effected from him. There is no allegation or evidence connecting him with any financial benefit having been gained by him in this process except that he has been shown to be involved along with other co-accused. Co-accused of the petitioner, namely, Ravi Ashok Sonune has been released on regular bail vide order dated 08.01.2018 passed in **CRM-M No.48334 of 2017**.

Under the similar circumstances, Delhi High Court in the case of **Sartori Livio vs State (Delhi Admin.)** 2005(2) RCR (Criminal) 479, released the accused on regular bail, who was also a foreign national, by relying upon the order passed in the case of **Nasimjon Komlov vs Customs** CRLM(M) no.2038/2000 , decided on 31.7.2000, wherein, it has been held as under :-

“ The learned counsel for the State opposed the grant of bail. He submitted that the petitioner is an Italian national and if he is released on bail, there is every likelihood that he may flee from justice. In fact, he pointed out to the order dated 04.11.2004 wherein this very fact has been noted. In support of this, the learned counsel for the petitioner placed a decision of a learned Single Judge of this Court in the case of Nasimjon Komlov v. Customs in CRLM(M) No.2038/2000 dated 31.07.2000. He referred to the following portion thereof:-

“Another argument that has been made by learned counsel for the Customs is that the petitioner is a foreigner and, therefore, should not be enlarged on bail. This argument must be heard and rejected. It would be a shame if courts

are going to keep persons incarcerated merely because they are of foreign origin even though prima facie no case is made out against them. This would be a negation of the valued principles of rule of law and violative of the constitutional mandate and principles of human rights.”

3. In view of this judgment, with which I am in agreement, it is clear that just because a foreign national is involved, it does not mean that he is to be denied the benefit of bail. Keeping in view all the facts and circumstances of the case and after having heard the learned counsel for the parties, I direct that the petitioner be released on bail on furnishing a personal bonds in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned trial court. The petitioners passport shall remain in the custody of the I.O concerned with the further condition that the petitioner shall not leave the National Capital Region without the prior permission of the concerned court.

The application stands disposed of.”

In the said judgment, it was held that in case, the foreign national is involved in any criminal case, it does not mean that he is to deny the benefit of bail.

By considering the submissions made by learned counsel for the petitioner as mentioned above, the present petition is allowed and petitioner, namely, Emmanuel Chinedo is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court subject to the following conditions:-

- (i) that the petitioner will furnish local surety to the satisfaction of the trial Court;
- (ii) that he shall surrender his passport before the trial Court;
- (iii) that he shall not leave the country without prior permission of the trial Court;

(iv)that he shall report to the concerned police station once in a month.

21.09.2018
gurpreet

(DAYA CHAUDHARY)
JUDGE

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