

**Sr. No.231
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No. M-2795 of 2018 (O&M)

Date of Decision: 20.02.2018

Harsha Aggarwal

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. P.S.Ahluwalia, Advocate,
for the petitioner.

Mr. Atinder Pal Singh Jaurkian, AAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is the second petition preferred by the petitioner under Section 439 Cr.P.C. seeking benefit of regular bail pending trial in case FIR No.35 dated 06.03.2017, under Section 420 of IPC and Section 4 of Prize Chits & Money Circulation Schemes (Banning) Act, 1978, registered at Police Station Kotwali, Patiala, District Patiala.

FIR came to be registered on the complaint made by Hitesh Seth. Perusal of the FIR however reveals that the aggrieved person is one Sandeep Goyal who has alleged that a sum of Rs.38 lacs advanced by his mother, namely, Raj Rani Goyal (since deceased) has been misappropriated.

It is alleged that such sum of money was furnished to the accused party on the pretext of attractive returns. Prosecution version is that by following a similar modus operandi a total sum of

Rs.01 crore 45 lacs approximately had been collected by the accused party from various persons including Raj Rani Goyal (since deceased).

The alleged entrustment of money in the present case is stated to be in favour of co-accused Rajnish Aggarwal @ Lucky i.e. husband of the petitioner. Even a receipt that is alleged to have been issued is under the signatures of co-accused Rajnish Aggarwal @ Lucky. Even issuance of certain cheques towards part return of the money are stated to have been issued not by the present petitioner but by co-accused Rajnish Aggarwal @ Lucky. As per prosecution version, an amount of Rs.38 lacs that had been entrusted by Raj Rani Goyal to the accused party had been partly raised by selling a plot worth Rs.29 lacs and the balance by selling certain gold ornaments.

Counsel representing the petitioner would advert to the final investigation report and which reflects that the investigating agency has gathered towards evidence an agreement to sell pertaining to a plot but which in turn has no connection to either Raj Rani Goyal or her son, namely, Sandeep Goyal.

Counsel contends that this in itself would create a serious dent insofar as raising of Rs.29 lacs out of the total Rs.38 lacs allegedly entrusted to the accused party.

That apart in the final investigation report, it has been specifically recited that the other complainants who had also allegedly given huge sums of money on the pretext of attractive returns when called upon to explain the source of funds had stated

in unison that the proof would be furnished during the course of trial.

It has gone uncontroverted that co-accused Rajnish Aggarwal @ Lucky has been granted bail under Section 167(2) Cr.P.C.

Present petitioner who is a lady has faced incarceration since 10.09.2017.

It may be taken note that the first petition preferred by the petitioner under Section 439 Cr.P.C. was dismissed by this Court on 06.10.2017 i.e. a stage prior to presentation of final challan.

As per learned State counsel who is on instructions from ASI Gurdev Singh, challan was presented on 07.11.2017. Such factual premise would be construed as a relevant change of circumstance to justify filing and entertaining of the instant second petition seeking benefit of bail.

Charges have been framed on 17.02.2018.

Trial is at the very initial stage.

Offences are triable by the Court of Magistrate.

In the totality of circumstances, petitioner is held entitled to the benefit of bail.

Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate, Patiala.

It may be clarified that the observations made in this order are confined only as regards considering prayer of the petitioner for grant of regular bail and would have no bearing on

the merits of the case.

Disposed of.

20.02.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes