

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

1. CRM-M-30322-2018

Harvinder Singh @ Kaka

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-30378-2018

Ram Singh Sidhu

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 15.10.2018

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. S. Rana, Advocate &
Mr. Sarvesh Kumar Gupta, Advocate
for the petitioner(s).

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Naresh Jain, Advocate for
Ms. G. K. Dulat, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to petitioners Harvinder
Singh @ Kaka and Ram Singh Sidhu in case FIR No. 006 dated 19.10.2016,

under Sections 406, 420, 467, 468, 471, 120-B of the IPC, Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, registered at Police Station State Crime, S.A.S. Nagar.

Learned counsel for the petitioners submits co-accused of the petitioners, namely Balvir Singh and Rajinder Kumar, have already been granted concession of regular, vide order dated 20.09.2018, passed by this Court in CRM-M Nos. 35541 and 35858 of 2018. The operative part of the said order reads as under:

“Counsel for the petitioners has submitted that while granting bail to the co-accused on 20.07.2018, the following order has been passed in CRM-M No.18477 of 2018:-

“Learned senior counsel for petitioner Lalit Khurana submits that the police has submitted two reports under Section 173 Cr.P.C. before the trial Court and there is no evidence against the petitioner in these two aforesaid reports and only statement of one Vikram has been recorded, in which he has stated that he has deposited an amount of Rs.25 lacs in the Crown Credit Company. It is further submitted that the petitioner is in judicial custody since 25.12.2017 and it being a magisterial trial, it will take long time in conclusion of the trial, as the prosecution is contemplating to file yet another supplementary challan. Learned senior counsel has further submitted that the petitioner himself is an investor in the company. Learned senior counsel for Baghwant Singh has submitted that the petitioner, who is 70% handicap person, was working as an employee of the company and he is in judicial custody since 25.12.2017. Learned senior counsel for Beant Singh submits that the allegations against the petitioner are of similar nature and he is also in judicial custody since 25.12.2017. Learned senior counsel for petitioner Amandeep Singh has submitted that the petitioner is in judicial custody since 10.03.2017 and

similar allegations are levelled against him. Learned State counsel, on instructions from Inspector Suman and assisted by learned counsel for the complainant, has however opposed the prayer for bail on the ground that number of investors have made the statements before the police, forming part of the report under Section 173 Cr.P.C. that on the allurements made by the petitioners, the victims have made investments in the aforesaid company and they have been cheated of their hard-earned money. Learned State counsel has further submitted that one co-accused namely Jaswinder Singh Kaler, who was granted the regular bail by this Court vide order dated 28.07.2016 passed in CRM-M-21793-2016, has absconded from the Court proceedings and is not appearing before the trial Court. It is further submitted that during the investigation, it has come on record that some amount has been transferred to another company Zuflo, which is run by aforesaid Jaswinder Singh Kaler. After hearing learned counsel for the parties and without commenting anything on merits of the case, considering the fact that the petitioners are in judicial custody since long and the report under Section 173 Cr.P.C. has been submitted before the trial Court; offences are triable by the Court of Magistrate and also in view of the fact that since the police is still contemplating to file another supplementary challan, it will take some time in conclusion of the trial, it being a magisterial trial and in view of the judgment in Manoranjana Singh @ Gupta Vs. Central Bureau of Investigation, 2017 (1) RCR (CrL.) 1025, wherein the Hon'ble Supreme Court has granted the concession of bail to the accused persons, who were involved in a scam of more than Rs.10,000/- crores considering the length of custody and observing that the undertrial prisoner cannot be detained for a definite period and it would amount to violation of Article 21 of the Constitution of India, these petitions are allowed and the petitioners are granted regular bail subject to the following conditions: - (a) the

petitioners will furnish bail bonds/two sureties of Rs.1.00 lacs each to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate. (b) the petitioners will furnish FDRs of Rs.5.00 lacs each in the name of the Chief Judicial Magistrate, SAS Nagar (Mohali) along with an undertaking that in case the petitioners failed to appear before the trial Court or abscond from the Court proceedings, the FDR amount of Rs.5.00 lacs shall stand forfeited to the State. (c) the petitioners will appear before the Investigating Officer, in case any other co-accused is arrested and the petitioners are required for further investigation in this regard, on receiving a notice from the Investigating Officer. (d) the petitioners will also surrender their passports, if any and will not leave India without prior permission of the Court.”

Counsel for the petitioner has further argued that subsequently, even other accused have been granted the concession of regular bail by this Court vide order dated 12.09.2018 passed in CRMM No.33579 of 2018 and some of them have been granted the concession of regular bail by the trial Court on 30.08.2018. Counsel for the State, assisted by counsel for the complainant has not disputed the factual position but opposed the prayer for bail. Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioners have already been granted the concession of bail; the petitioners are no more required for further investigation and conclusion of the trial is likely to take some time, these petitions are allowed and the petitioners namely Balvir Singh and Rajinder Kumar are directed to be released on bail subject to the following conditions:-

(a) the petitioners will furnish bail bonds/two sureties of Rs.1.00 lacs each to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate. (b) the petitioners will furnish FDRs of Rs.5.00 lacs each in the name of the Chief Judicial Magistrate, SAS Nagar (Mohali) along with an undertaking that in case the petitioners failed to appear before the trial Court or abscond from the Court proceedings, the FDR

amount of Rs.5.00 lacs shall stand forfeited to the State. (c) the petitioners will appear before the Investigating Officer, in case any other co-accused is arrested and the petitioners are required for further investigation in this regard, on receiving a notice from the Investigating Officer. (d) the petitioners will also surrender their passports, if any and will not leave India without prior permission of the Court.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

Learned counsel for the petitioners further submits that other co-accused of the petitioners, namely Lalit Khurana, Baghwant Singh, Amandeep Singh and Beant Singh, have also been granted concession of regular bail by this Court, vide order dated 20.07.2018 passed in CRM-M Nos. 18477, 21362, 22740 and 23098 of 2018, respectively.

Learned counsel for the petitioners has further submitted that petitioner Harvinder Singh @ Kaka is in custody since 19.12.2017 and petitioner Ram Singh Sidhu is in custody since 25.12.2017 and challan stands presented. It is further submitted that out of 101 witnesses, 16 have been examined and the offences being triable by the Court of a Magistrate, it will take a long time in conclusion of the trial.

Learned State counsel, on instructions from Inspector Suman Kumari, assisted by learned counsel for the complainant has, however, opposed the grant of regular bail to the petitioners.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that petitioners are in judicial custody for a considerably long time; several co-accused have already been granted concession of regular bail as

noticed above and also in view of the fact that trial is likely to take a long time, the instant petitions are allowed. Petitioners Harvinder Singh @ Kaka and Ram Singh Sidhu are ordered to be released on regular bail subject to the following conditions:

- (a) the petitioners will furnish bail bonds/two sureties of Rs.1.00 lacs each to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.
- (b) the petitioners will furnish FDRs of Rs.5.00 lacs each in the name of the Chief Judicial Magistrate, SAS Nagar (Mohali) along with an undertaking that in case the petitioners fail to appear before the trial Court or abscond from the Court proceedings, the FDR amount of Rs.5.00 lacs shall stand forfeited to the State.
- (c) the petitioners will appear before the Investigating Officer, in case any other co-accused is arrested and the petitioners are required for further investigation in this regard, on receiving a notice from the Investigating Officer.
- (d) the petitioners will also surrender their passports, if any and will not leave India without prior permission of the Court.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.

A photocopy of this order be placed on the file of other connected case.

October 15, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*