

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.46571 of 2018 (O&M)
Decided on: 29.10.2018

Abhey

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rajesh Bansal, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.716 dated 07.11.2017, for offence punishable under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code (in short 'IPC'), registered at Police Station Samalkha, District Panipat.

Counsel for the petitioner has submitted that on 09.07.2018, while granting regular bail to the co-accused of the petitioner namely Jai Parkash, in CRM-M No.25215 of 2018, the following order was passed by this Court:-

“....Learned counsel for the petitioner submits that as per the allegations in the FIR, the petitioner has prepared forged documents to show that his son Abhay is a juvenile as he along with the petitioner is facing criminal trial in case FIR No. 438 dated 21.06.2017, under Sections 302, 341, 379-B, 120-B, 201, 506 and 34 of the IPC registered at Police Station Samalkha. Learned counsel for the petitioner further submits that the deceased, in the said FIR, was the real nephew of the complainant in this

case.

Learned counsel for the petitioner further submits that the petitioner was granted bail in the said FIR No. 438 on 20.03.2018 and thereafter the petitioner was immediately arrested in the present FIR. Learned counsel for the petitioner has further submitted that the petitioner is involved in four other FIRs, registered in the same police station, which were registered on 12.06.2017, 13.06.2017, 20.06.2017 and 21.06.2017 and he has been granted regular bail in all the four other FIRs by the Court of Additional Sessions Judge, Panipat/SDJM, Samalkha.

Learned counsel for the petitioner further submitted that the challan has already been presented and the offences are triable by a Court of the Magistrate and it will take some time for the trial to conclude as the charges are yet to be framed.

Learned State counsel filed custody certificate in Court today and has disputed the factual position with regard to registration of above said four other FIRs and the fact that the petitioner is on bail in all the said FIRs. Learned State counsel, on instructions from ASI Ram Diya and assisted by learned counsel for the complainant, has, however, opposed the grant of regular bail to the petitioner on the ground that there is possibility that the petitioner may misuse the concession of regular bail being an accused in FIR No. 438.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is on bail in all the four other FIRs; he is in judicial custody since 23.03.2018; challan has already been presented and the charges are yet to be framed and being a magisterial trial, it will take time to conclude, the instant petition is

allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned....”

Counsel for the petitioner has further submitted that the petitioner is in custody since 23.03.2018 and conclusion of the trial will take some time.

Counsel for the State, on instructions from ASI Sube Singh, has not disputed the factual position but opposed the prayer for bail. It is also submitted that the out of 15 prosecution witnesses, 04 PWs have already been examined.

Without commenting anything on merits of the case, considering the fact that out of 15 prosecution witnesses, 04 PWs have already been examined; the co-accused of the petitioner has already been granted the concession of regular bail and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds, to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

29.10.2018

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No