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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.7358 of 2018 (O&M)
Date of Decision: 02.05.2018

Shiv Bahadur

..... Petitioner

Versus

Union Territory, Chandigarh

..... Respondent

CRM-M No.9375 of 2018 (O&M)

Shalesh Kumar

..... Petitioner

Versus

Union Territory, Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Pratham Sethi, Advocate,
for the petitioner(s).

Mr. J.S. Toor, Additional Public Prosecutor,
for U.T., Chandigarh.

SUDIP AHLUWALIA, J. (ORAL)

**CRM No.11945 of 2018 in CRM-M No.7358 of 2018 &
CRM No.11944 of 2018 in CRM-M No.9375 of 2018:**

By way of these applications, the applicant(s)-petitioner(s)
seek preponement of the date in the main case, which is 02.05.2018, today

itself.

In view of above, the present applications are rendered infructuous and are disposed off as such.

CRM-M No.7358 of 2018 & CRM-M No.9375 of 2018:

This common order will dispose off two petitions, being CRM-M No.7358 of 2018 and CRM-M No.9375 of 2018, seeking grant of regular bail to two different petitioners, namely Shiv Kumar son of Uma Shankar (in CRM-M No.7358 of 2018) and Shalesh Kumar son of Harinder Singh (in CRM-M No.9375 of 2018), in same F.I.R., bearing No.201, dated 11.10.2017, under Section 420/467/468/471/120-B of the Indian Penal Code, registered at Police Station North, District Chandigarh.

2. Both the petitioners were arrested on 13.10.2017. After completion of investigation, challan was submitted against them on 11.12.2017. Thereafter, they are in detention during pendency of trial. Charges have been framed against them under Sections 420 and 120-B of the Indian Penal Code and the matter is under trial in the Court of Ld. Judicial Magistrate Ist Class, Chandigarh.

3. It transpires that trial commenced in the case by way of framing of charges against the petitioners on 19.01.2018, after which the matter was posted for prosecution evidence on 02.02.2018. Thereafter, till date, only one out of the twenty four prosecution witnesses has been examined, which would, therefore, indicate that it would take sometime to complete trial. The petitioners have already remained in detention for a period well above six months till now.

4. It may be mentioned that inspite of completion of investigation, the Ld. Trial Court had rejected the petitioners' application for bail on the ground that, "the allegations against them were grave in nature" with the following observations:-

"After due consideration of the arguments of both the parties and going through the records, it comes out that no doubt the applicant is in custody since the date of his arrest but the question arises whether he can be released on bail on this ground without considering the allegations and its gravity. However after considering the contentions and records, it comes out that no ground to release the accused is made out as all the allegations against the applicant are relating to commission of offence of cheating that too while petitioner along with co-accused procured the question paper of TGT of Education Department as well as question papers of other examination and got leaked the question papers and arranged the candidates for getting the question papers including the candidates appearing in the exams conducted by Chandigarh Education Department and therefore, the menace is to be checked deterrently and no undue sympathy can be shown in such cases on the ground that the applicant is in custody and not required for further investigation. Furthermore, this is not the stage to delve into the merits."

5. The Ld. Court below appears to have gone out of its way in denying bail to the petitioners considering that the offence for which they were charged is not punishable with death and maximum punishment prescribed is itself well below ten years.

6. In the meantime, the petitioners have also become entitled to statutory bail under Section 437(6) of the Code of Criminal Procedure, since more than sixty days have already elapsed after the first date fixed for prosecution evidence, and the end of trial is nowhere insight in foreseeable future.

7. For the aforesaid reasons, further detention of the petitioners for an indefinite period is not justified.

8. However, considering the aspect that there appears to have been a kind of mega scam in the matter of fraudulent and illegal appointment of teachers to public posts and the fact that both the petitioners are residents outside the jurisdiction of this Court, they are ordered to be released on bail, if not detained in any other case, on furnishing of sufficient bail bonds with appropriate surities, subject to the satisfaction of the Ld. Trial Court, with a further direction that they shall not leave the Territory of Chandigarh till further orders and shall report themselves at the concerned Police Station once a week, and shall also give their respective telephone numbers to the concerned Police Station.

9. Disposed off.

02.05.2018
Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No