

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No. 28054 of 2018 (O&M)

Date of Decision : 28.03.2019

Gurmesh Kumar Gaba

....Petitioner

Versus

Assistant Director, Directorate of Enforcement, Jalandhar.

...Respondent.

Coram: **Hon'ble Mr. Justice Krishna Murari, Chief Justice.**
 Hon'ble Mr. Justice A.B.Chaudhari, Judge.

Present : Mr. Vikram Chaudhary, Senior Advocate with
 Ms. G.K.Maan, Advocate and
 Ms. Isha Goel, Advoate, for the petitioner.

 Mr. Chetan Mittal, Senior Advocate with
 Mr. Udit Garg, Advocate, for the respondent.

KRISHNA MURARI C.J. (oral)

The petitioner has filed this petition under section 439 of the Code of Criminal Procedure for grant of regular bail in a complaint case i.e. COMA No. 1 dated 22.01.2016/01.07.2017 under section 45(1) of Prevention of Money Laundering Act, 2002 pending before the Special Judge, Mohali, Punjab (PMLA).

2. The petitioner was arrested on 01.06.2018 and is in jail since then. Learned counsel for the petitioner submits that the father of the petitioner who was prosecuted in one FIR has been acquitted by the trial Court and therefore, he submits that this is one of the circumstance which is relevant for the purposes of decision of the present petition.

3. Mr. Chetan Mittal, learned senior counsel appearing for the Enforcement Directorate, however, opposed the petition on the ground that one more FIR is pending. Upon considering the arguments advanced on behalf of the rival parties, we find that the petitioner would be entitled to explain the source of Rs. 6 crores which according to the prosecution was not explained during investigation. But for that reason, his liberty cannot be jeopardized ad-infinitem particularly since he has already suffered imprisonment from the date of his arrest. At any rate, no benefit would enure to the complainant-ED to keep him in custody during the pendency of the trial which would take its own time apart from the fact that there is no likelihood of tampering with prosecution evidence which is also of the documentary nature.

In that view of the matter, we make the following order:-

ORDER

- i) Crl. Misc. No. M. 28054 of 2018 is allowed.
- ii) The petitioner be released on bail to the satisfaction of the trial Court.
- iii) The petitioner to surrender his passport with the trial Court, if he possesses the same.
- iv) The petitioner shall not tamper with the prosecution evidence and will appear before the trial Court and cooperate in the trial proceedings.

(KRISHNA MURARI)
CHIEF JUSTICE

28.03.2019

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(A.B.CHAUDHARI)
JUDGE