

CRM-M-20573-2019 & CRM-M-23277-2019

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.210 (2 Cases)

CRM-M-20573 OF 2019

Dated of Decision: 07.12.2019

MAHESH MALLI AND ANOTHER

....PETITIONERS

VS

STATE (U.T. ADMINISTRATION CHANDIGARH)RESPONDENTS

CRM-M-23277 OF 2019

MUKESH KUMAR

....PETITIONERS

VS

STATE OF U.T. CHANDIGARH

....RESPONDENTS

CORAM: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr. Ashok Sharma Nabhwala, Advocate
for the petitioners in CRM-M-20573 of 2019.

Mr. Shivam Bajaj, Advocate
for the petitioner in CRM-M-23277 of 2019.

Mr. Ranjan Lohan, Advocate
for the Bank of India.

Mr. Rajive Sharma, Addl. P.P., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

The prayer in the present petitions is for grant of regular bail in FIR No.268 dated 10.08.2018 under Sections 420, 467, 468, 471, 474, 120-B IPC, registered at Police Station Sector 17, Chandigarh.

Learned counsel for the petitioner (in CRM-M-20573 of 2019) has stated that on 16th May 2018, a cheque bearing No.53710 for Rs.98,00,000/- (Rupees Ninety Eight Lakhs) and another cheque bearing No.53711 for Rs.35,00,000/- (Rupees Thirty Five Lakhs) were encashed from the account of the complainant, whereas he has never issued these cheques and the original cheques were in possession of the complainant.

Upon enquiry, it was found that all the accused persons, in conspiracy with each other, have withdrawn the said amount. Learned counsel for the petitioners i.e. Mahesh Malli and Rajesh Upadhyay (in CRM-M-20573 of 2019), has further argued that the petitioners are in custody since 04.12.2018.

Learned counsel for the petitioner-Mukesh Kumar (in CRM-M-23277 of 2019) has argued that petitioner is in custody since 21.10.2018. It is further argued that the challan was presented on 18th June 2019 and the charges were framed on 24th July 2019.

Learned counsel for the petitioners have argued that first date for prosecution was 7th August 2019 and since then till date, no prosecution witness has been examined, and the petitioners are entitled to bail as per provisions of Section 437 (6) Cr.P.C. and the offence is triable by the court of Magistrate.

Learned counsel appearing for Bank of India has filed an affidavit and as per the affidavit filed by way of Deputy Zonal Manager, Bank of India, Chandigarh Zone, it is stated that enquiry was conducted by Bank through its vigilance department and it has submitted its report on 27th December 2018 and some procedural lapses have been found on the part of the staff. He has further stated that out of 17 employees, 8 employees of Chandigarh zone and 4 persons of Ujjain zone, were found to be dealing with the said account and therefore disciplinary proceedings have already been initiated against the persons referred to in para 8 of this affidavit.

It is further stated in para 11 that complainant-Ajay Sood has been paid the full amount of Rs.1.33 crore with interest in lieu of loss suffered by him due to fraudulent withdrawals of the amount from his

account through forged/cloned cheques by the accused persons involved in the matter.

Learned counsel appearing for U.T., Chandigarh has not disputed the fact that the case was fixed for first time for prosecution evidence on 7th August 2019, however, no witness has been examined so far.

Without commenting on the merits of the case, considering the aforesaid submissions made by the counsel for the petitioners and also considering the fact that the petitioners are in long custody and despite having the charges been framed on 24th July 2019, and no witness has been examined so far, the instant petitions are allowed. Petitioners i.e. Mahesh Malli, Rajesh Upadhyay (in CRM-M-20573 of 2019) and Mukesh Kumar (in CRM-M-23277 of 2019) are ordered to be released on regular bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Chandigarh.

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

December 07, 2019

Himanshu

(Arvind Singh Sangwan)**Judge**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No