

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

**CRM-M No.27154 of 2019 (O&M)
Decided on: 10.12.2019**

Mohammad Shakeel @ Khan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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.1 dated 12.04.2019, registered under Sections 406, 392, 411, 412, 34, 120-B of the Indian Penal Code and 13 (1)(a), 13(2) of the Prevention of Corruption Act, 1988 at Police Station Punjab State Crime, SAS Nagar Mohali, District Mohali.

Counsel for the petitioner, at the very outset, has relied upon the order dated 27.11.2019 passed by this Court in CRM-M No.44032 of 2019 vide which Davinder Kumar @ Kala, the co-accused of the petitioner was granted the concession of regular by passing the following order:-

“...The FIR was registered on the basis of a complaint by Father Anthony Maedasser. He stated that he

was a partner in a firm M/s Sahodhaya. The firm was dealing in sale and purchase of stationery items which were being provided to various schools run by Diocese Jalandhar all over Punjab. As the new academic session in all the schools had started, books and stationery items were being provided to various schools by the said firm. The sale proceeds in respect thereof were being collected at the house of complainant at Village Partapura, Tehsil and District Jalandhar. He alleged that about 30 unidentified persons dressed in police uniforms armed with deadly weapons revolvers, AK 47 came to his house. They in the presence of bank officials who were present in his house took away the complainant and another. They snatched their mobile phones. They also took away the entire cash which was available in the house. The complainant alleged that total collections of the firm were Rs.30,34,54,988/- out of which Rs. 14,00,00,000/- had been deposited with South Indian Bank. The officials of the bank were present in his house and were counting the currency to be deposited in the account of the firm. The complainant was kept in custody by the police officials and released on the morning of 30.3.2019. He was informed that the money had been sent to the Income Tax Authorities, Ludhiana. The complainant received a notice from the Income Tax authorities to appear in the office of Income Tax, Ludhiana on 30.3.2019. He then learnt that money which was given to the Income Tax Authorities was only Rs. 9,66,00,000/- whereas the amount which had been taken from the house of the complainant was Rs. 16,34,54,988/-. In this manner, the police officials had misappropriated Rs. 6,65,00,000/-.

An SIT was constituted under the charge of IGP Crime-1 to investigate the matter, in which the role of various police officials came to the fore. Allegations

against the petitioner are that he was friend of accused ASI Joginder Singh and ASI Rajpreet Singh. ASI Joginder Singh had given some of the misappropriated amount to petitioner. The petitioner was arrested on 2.5.2019. On the basis of his disclosure statement, Rs. 30,00,000/- were recovered from his house.

The learned counsel for petitioner contends that petitioner is a Commission Agent at Moonak. In that capacity, he had dealings with family of ASI Joginder Singh. He states that amount allegedly recovered was in fact given to him by father of ASI Joginder Singh, namely, Prem Singh. Said Prem Singh has already sworn an affidavit to this effect. He is respectable person in locality. He is not in any way connected with the police officials. In any case, the recovery has already been effected. Nothing more is to be recovered from petitioner. The petitioner is in custody since 2.5.2019.

Taking into consideration all the facts and circumstances and without expressing any opinion on the merits of case, this petition is allowed. The petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate concerned.”

Counsel for the petitioner has further argued that the petitioner is the neighbor of ASI Joginder Singh and was having dealing with him. It is further submitted that the petitioner is in custody since 02.05.2019 and the challan has already been presented against the petitioner.

Counsel for the State, on instructions from SI Chajju Singh, has argued that ASI Dilbag Singh also stands arrested whereas the 02 co-accused namely Nirmal Singh and Surinderpal Sharma, have

already been declared as proclaimed offender vide order dated 11.10.2019.

Counsel for the State however, on instructions from the Investigating Officer, has further argued that the petitioner is not involved in any other case and Rs.20 lacs have already been recovered from the petitioner.

In reply, counsel for the petitioner has submitted that even on bare perusal of the FIR, the primary charge against the petitioner would be under Sections 411 and 412 IPC.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; he is in judicial custody since 02.05.2019; the co-accused of the petitioner namely Davinder Kumar @ Kala has already been granted the concession of regular bail; the custodial interrogation of the petitioner is no more required and it will take some time in conclusion of the trial, 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/Illaq Magistrate/Duty 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

10.12.2019

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No