

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

CRM-M-654-2020
Date of decision: 17.01.2020

Sachin Yadav

...Petitioner

Versus

State of U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Shivam Bajaj, Advocate
for the petitioner.

Mr. Gautam Kaile, Advocate for
Mr. Rajiv Sharma, Addl. P.P., U.T., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 268 dated 10.08.2018, registered under Sections 420, 467, 468, 471, 474, 120-B of the IPC at Police Station Sector 17, Chandigarh.

Learned counsel for the petitioner relies upon order common dated 07.12.2019 passed in CRM-M Nos. 20573 and 23277 of 2019, wherein the following observations were made by this Court while granting concession of regular bail to co-accused Mahesh Malli, Rajesh Upadhyay and Mukesh Kumar:

“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 Upon enquiry, it was found that all the accused persons, in conspiracy with each other, have withdrawn the said amount.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.”

Learned counsel for the petitioner further submits that the petitioner is in judicial custody since 30.11.2018 and no witness has been examined so far despite the fact that the case was fixed for prosecution evidence for the first time on 07.08.2019.

Learned counsel, appearing on behalf of the U.T., Chandigarh, could not dispute the factual position

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody since 30.11.2018; co-accused have already been granted concession of regular bail by this Court as noticed above; the offences are triable the Court of a Magistrate and also in view of the fact that conclusion of trial is likely to take a long time as the evidence is yet to start, the instant petition is allowed. The petitioner is

ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

17.01.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No