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

CRM-M-12268-2020 (O&M)
Date of decision: 20.05.2020

Harpal Singh **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sube S. Kaushik, Advocate
for the applicant-petitioner.

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. *(Oral)*

CRM-10802-2020

Allowed as prayed for.

Documents are taken on record as Annexures P-6 to P-8.

Main case

The petitioner prays for grant of anticipatory bail in FIR No. 39 dated 26.01.2016, registered under Sections 406, 420, 467, 468, 471, 120-B of the IPC and Sections 7, 13 of the P.C. Act, 1988 (added later on) at Police Station City Jind, District Jind.

Learned counsel for the petitioner submits that the with the similar allegations another FIR No. 434 dated 10.06.2015, under Sections 406, 420, 467, 468, 471, 120-B of the IPC and Sections 17, 49 of the P.C. Act, 1988 at the same police station was registered, in which the petitioner was arrested and he was granted regular bail on 10.05.2016 by the Additional Sessions Judge, Jind (Annexure P-2).

Learned counsel for the petitioner further submits that the petitioner is a 70% disable person as per the certificate issued by the medical board and even his wife is disable by 60%, vide Annexures P-6 and P-7.

Learned counsel further submits that with the similar allegations, the present FIR has been registered and the allegations against the petitioner are that he, being a local Municipal Councilor, has identified fake sellers who have obtained loan from HDFC Bank.

Learned counsel for the petitioner relies upon order dated 24.02.2020 passed by this Court in CRM-M-31976-2019 and seven other connected petitions, vide which eight of the co-accused, including beneficiaries (who have been identified by the petitioner), have been granted concession of regular bail/anticipatory bail. The operative part of the order reads as under:

> "[2]. In CRM-M Nos.31976, 37285, 46379, 47800, 49105, 51489 of 2019 & CRM-M No.241 of 2020, petitioners namely Sahil Puri, Hitender Kumar, Sushil Bansal, Rajesh Kumar, Ashish Bansal, Manish Kumar @ Munish Kumar and Naresh Kumar seek grant of regular bail. In CRM-M No.45408 of 2019 petitioner-Neeraj seeks grant of anticipatory bail.
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> [3]. Since all the aforesaid cases have arisen out of same FIR No.39 dated 26.01.2016 registered under Sections 406, 420, 467, 468, 471, 120-B IPC (Sections 7 & 13 of Prevention of Corruption Act, 1988 added later on) at Police Station City Jind, District Jind, Haryana, therefore, common facts are being noticed.
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> [4]. The aforesaid FIR was lodged on a complaint made by Anubhav Pasricha, authorized representative of HDFC Bank alleging that some persons had played fraud in obtaining loan from the Bank after getting sale deeds

registered in respect of non-existent properties. The loan facilities were availed by the customers by producing false and forged documents through Branches of the Bank. The Agencies which were engaged to evaluate the properties being mortgaged by the customers as collateral securities as well as the lawyers, who were engaged for verifying the title of the properties were also found involved. With the aforesaid background the FIR, came to be registered, in which 21 accused were nominated.

[5]. As per allegations, originally two firms namely Bansal Trading Company and Hindustan Trader are belonging to Ashish Bansal and remaining 35 firms alleged to be fake, were opened by him by giving fake documents. It has been alleged that the loan amount was routed through his account in the aforesaid two firms and the amount was deposited in his account. The original 2 firms and remaining 35 firms were declared NPA within five months.

[6]. There are total 21 accused in this case, out of which 12 accused namely Manoj Kumar, Happy Jain, Rakesh Jain, Pankaj, Satyawan, Vijay Kumar @ Dhola, Deepak Garg, Sandeep Duhan, Raman and Jitender have been granted regular bail, whereas Raj Pal and Anil Jain have been granted anticipatory bail.

[7]. It has also been alleged that the properties of fake firms were created by Ashish Bansal. Some of them are servants and rickshaw pullers. Remaining 8 accused are in custody, whereas co-accused Neeraj is on interim anticipatory bail. In total, an amount of Rs.21 crores has been illegally swallowed by the accused persons by way of forgery and petitioner-Ashish Bansal @ Ashu is stated to be the main accused, whereas petitioners namely Hitender Kumar, Sahil Puri, Manish Kumar @ Munish

Kumar, Sushil Bansal and Neeraj are the Relationship Managers of the Bank. Petitioner(s) Naresh Kumar and Rajesh Kumar are proprietors of the fake firms. Ten of the impersonators are still not traceable and the investigation is pending to that extent.

[8]. Learned counsel for the petitioner(s) submitted that in view of status of the case in FIR No.434 dated 10.06.2015, the petitioners are also entitled for regular bail as both the FIRs involve similar cause of action.

[9]. Learned counsel further submitted that in fact the allegations forming subject matter of FIR No.39 dated 26.01.2016 ought to have been investigated by the Police in FIR No.434 dated 10.06.2015 itself. The role of Relationship Manager is defined. Since, the Advocates have already been granted regular bail, therefore, Relationship Managers are also entitled for the same treatment, particularly when their collaterals have already been granted such benefit in the connected case arising out of FIR No.434 dated 10.06.2015.

[10]. Accused Sahil Puri, Hitender Kumar and Neeraj are also accused in FIR No.434 dated 10.06.2015 and they have been granted bail vide order of even date, therefore, the aforesaid accused are also entitled for the same treatment in the present FIR. Accused Ashish Bansal has already been granted regular bail in FIR No.434 dated 10.06.2015 vide order dated 12.04.2016 passed in CRM-M No.11020 of 2016. Therefore, he is also entitled for the same treatment in the present FIR.

[11]. Similarly, remaining accused are also entitled for regular bail on parity. Accused Neeraj is on interim anticipatory bail and in view of his status in FIR No.434 dated 10.06.2015, he is also entitled for the same relief in the present case. Petitioners seeking regular bail are in custody since July 2019, therefore, in the light of

observations made by the Hon'ble Apex Court in ***Sanjay Chandra and Vinod Goenka vs. Central Bureau of Investigation, 2011(4) R.C.R. (Criminal) 898 and Siddharam Satlingappa Mhetre vs. State of Maharastra and others, 2011(1) R.C.R. (Criminal) 126***, the magnitude of causing loss to the State Exchequer even in case of economic offences after investigation and filing of chargesheet, can be considered for grant of regular bail to the accused/petitioners, who are in custody since July 2019. The prescribed punishment for offences would determine the severity of punishment in accordance with law in view of observations made by the Hon'ble Apex Court in ***P.C. Chidabmbram vs. Directorate of Enforcement, CRA No.1831 of 2019*** decided on 04.12.2019. Since the accused are in custody since July, 2019, therefore, the period of custody as observed in ***Sanjay Chandra and Vinod Goenka's*** case (supra) would suffice to answer the prayer of the petitioners on the basis of their custody.

[12]. For the reasons mentioned hereinabove, I deem it appropriate to consider the case of the petitioners for grant of regular bail. Petitioner-Rajesh Kumar has shown his willingness to pay back the amount in question. He would be at liberty to approach the Bank in the context of repayment of loan amount as per the Schedule to be fixed by the parties as per norms.

[13]. In view of above, petitioners namely Sahil Puri, Hitender Kumar, Sushil Bansal, Rajesh Kumar, Ashish Bansal, Manish Kumar @ Munish Kumar and Naresh Kumar are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

[14]. The case of petitioner-Neeraj can also be considered at par with those co-accused, who have been

> granted concession of anticipatory bail. He has already joined the investigation in compliance of order dated 24.10.2019. Consequently, the interim order dated 24.10.2019 is made absolute. However, petitioner-Neeraj shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required; ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.
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> [15]. In view of above, all the petitions stands allowed.
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> [16]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case."

In reply, learned State counsel has argued that the petitioner has identified fake persons who have set up fake sale deeds for obtaining loan from the bank, however, could not dispute that even the persons, who have valued such fake properties, have been granted concession of bail.

Learned State counsel could also not dispute the fact that some of the co-accused, out of who some are the beneficiaries and were granted loan by the bank on the basis of the said documents, have also been granted regular bail/anticipatory bail. It is also not disputed that the petitioner is not a beneficiary and has only identified the persons.

After hearing learned counsel for the parties and considering the observations made in the order dated 24.02.2020, vide which some of the co-accused have been granted concession of regular bail/anticipatory bail by this Court, the present is allowed and the petitioner is granted concession of anticipatory bail subject to the conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation after issuing a written notice in this regard.

20.05.2020 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*