IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-16964-2020 (O&M).
Decided on: July 17, 2020.

Harvinder Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT **Mr.Preetinder S. Ahluwalia, Advocate,**
for the petitioner.

Mr.H.S.Grewal, Addl. A.G. Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C., for the grant of regular bail in case FIR No.143 dated 16.09.2019, under Sections 406, 419, 420, 170, 465, 467, 468, 201 and 120-B IPC, registered at Police Station, Mataur, District S.A.S. Nagar (Mohali).

As per the contents of the FIR, a complaint was made by one Jagdip Kaur alleging that she had relations with one Harpal Kaur who was running a boutique where she met one Paramjeet Kaur who is stated to be wife of the petitioner. Aforesaid Paramjeet Kaur had allegedly claimed that she has good relations with various travel agents of Mohali and that she

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had also bought various plots from PUDA on cheaper rates and in fact she is in this business of getting the cancelled plots of PUDA due to non-payment of installments and then selling the same on higher rates and that she had induced the complainant to give Rs.40 lacs on that pretext. She had further stated that she had sold one of the two plots at Rs.70 lacs and had deposited Rs.3 lacs in the account of the complainant but remaining Rs.67 lacs were not paid and have not been returned.

Petitioner namely Harvinder Singh had also filed a petition for bail before this Court bearing number CRM-M-52765-2019 which was withdrawn by him on 20.12.2019 and thereafter another application bearing number CRM-M-6093-2020, which was dismissed by this Court on 18.2.2020.

Learned counsel for the petitioner has submitted that the petitioner has been wrongly roped up in the present FIR and that he is husband of aforesaid Paramjeet Kaur and had no role to play. He has further submitted that the allegations contained in the FIR are false. Learned counsel has further submitted that although the earlier bail petition has been dismissed by this Court primarily on the ground that in the present FIR during investigation five more complaints were received from different people which had become part of the FIR itself but during the hearing of the earlier petition, it was not pointed out to the Court that while presenting challan before the Court, the police has itself stated in the challan report that during investigation, the complainant party had not made available the details of their bank record as well as the details of the stamp papers bought

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by complainant's father. It is further stated in the challan report by the police that the remaining aggrieved persons had not informed in detail in their statements about the incident that had taken place with them due to which the time of the incident and date is not clear in their statements under Section 161 Cr.P.C. The complainant and the aggrieved persons had not produced any document with regard to source of funds etc. during investigation and the accused have not got recovered any document which had the stamp of Estate Officer GMADA affixed on them.

Learned counsel for the petitioner submits that five persons who were added in the FIR have not been able to show as to from where they got the money and that the complaint is totally vague as per the prosecution story. He, therefore, prays that prayer of the petitioner for the grant of regular bail may be considered by this Court.

Learned counsel for the petitioner has further submitted that the petitioner was falsely implicated in two other cases also and in both the cases, he has been granted the concession of bail. In FIR No.341 dated 18.12.2019, registered at Police Station, City, Rajpura, District, Patiala, the petitioner was granted default bail on 7.3.2020 by the learned trial Court and in FIR No.131 dated 19.10.2019, registered at Police Station, Phase 11, S.A.S. Nagar, (Mohali), petitioner has been granted bail by a Coordinate Bench of this Court on 1.7.2020 in CRM-M-15308-2020, by imposing stringent conditions.

Learned counsel for the petitioner has further submitted that the petitioner is in custody since 17.9.2019 and after completion of

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investigation, the challan has been presented on 28.11.2019 and the trial is likely to take sufficient long time particularly in view of the prevalent pandemic conditions in the country. He has further submitted that present case is triable by the Magistrate and therefore, has prayed for the grant of bail in the present case.

On the other hand, learned State counsel has not disputed the fact that the petitioner is in custody since 17.9.2019 and investigation in the present case is complete and challan stands presented on 28.11.2019. He has also not been able to dispute the fact that in the challan report which was filed before the Court, it has been stated that during investigation, the complainant party had not been able to provide any detail of their bank record as well as the source of money which they had allegedly paid to the petitioner. However, learned State counsel has opposed the bail application on the ground that the matter is serious in nature as the petitioner was also involved in other similar cases and therefore, prays for dismissal of the present bail application.

I have heard the learned counsel for the petitioner as well as learned State counsel through video conferencing.

In has not been disputed by the parties that the petitioner is in custody since 17.9.2019 and the investigation in the present case has already been completed long time ago and the challan stood presented on 28.11.2019 but the case has not progressed after that. One of the reasons for non-progress of the case may be the ongoing pandemic in the country. A perusal of the challan report which has been annexed with the petition as

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Annexure P2, shows that it has been stated in the challan report that during investigation, the complainant party had not made available the details of their bank record and the details of the stamp papers bought by the complainant's father and that the remaining aggrieved persons had not informed in detail in their statements about the incidents that had taken place with them due to which the time of the incident and date is not clear in their statements under Section 161 Cr.P.C.

The present application for bail is third application filed by the petitioner. The first was withdrawn by him on 20.12.2019 and second was dismissed on merits on 18.2.2020. Successive bail applications can be entertained only when there exists reasonable and changed circumstances and successive bail applications are always to be dealt with care and caution. In the present case, the following circumstances have been considered by this Court:-

(i) When the earlier bail application bearing number CRM-M-6093-2020 was dismissed by this Court, the stand taken by the State was that 5 more persons had made a similar complaint and is a part of FIR. However, the State did not bring to the notice of the Court that in fact the challan which stood presented in November, 2019, it was incorporated that during investigation the complainant party had not made available the details of their bank record and details of the stamp paper bought by complainant's father and due to which the record

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pertaining to it was not enclosed. Similarly, the remaining aggrieved persons had not informed in detail in their statements about the incidents that had taken place with them due to which the time of the incident and date is not clear in their statements under Section 161 Cr.P.C. Furthermore, the complainant and the aggrieved persons had not produced any document with regard to their source of funds etc. during investigation and there is no recovery of stamp papers etc.

(ii) In the earlier bail application, the State took up a stand that in case petitioner is released on bail, then he may influence witnesses and may tamper the record. However, during course of hearing in the present case, the learned Additional Advocate General, has not pressed this stand as according to him there is no material on record to show the same.

(iii) At the time of dismissal of earlier bail applications, the custody of petitioner was five months and now the custody is about ten months. It is undisputed position that despite challan having been presented in November 2019, no progress has been made further.

Therefore, considering the aforesaid totality of the circumstances coupled with the fact that it is a case triable by a Magistrate, I

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deem it fit and appropriate to admit the petitioner on bail. Consequently, the petition is allowed. It is ordered that the petitioner shall be released on bail subject to his furnishing surety of Rs.5 lacs in the form of property papers for surety/bank guarantee, to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate/trial Court concerned. Further petitioner shall not leave the country without prior permission of the trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of deciding the present petition.

July 17, 2020. **(JASGURPREET SINGH PURI)**
raj arora **JUDGE**

Whether speaking / reasoned Yes / No
Whether reportable Yes / No

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