

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

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**CRM-M-17210-2020
Date of decision: 29.10.2020**

Chandan Chopra

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. R.S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema, Advocate
for the petitioner.

Mr. H.S. Multani, Asstt. A.G. Punjab
for the respondent-State.

Mr. Ravinder Singh Randhawa, Advocate
for the complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of regular bail in case FIR No.109 dated 15.10.2019 registered under Sections 406, 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Division No.3, Jalandhar.

The complainant-Joginder Pal Kapoor made written complaint dated 09.09.2019 to the Commissioner of Police, Jalandhar. In his written complaint Joginder Pal Kapoor alleged that in August, 2015 accused Chandan Chopra (the petitioner) who is his neighbour told him that accused Puneet @ Baljit who is his friend and has good

relations with Senior Police Officers of Punjab and Delhi could get his son appointed as Deputy Superintendent of Police in Punjab Police. In September, 2015 accused Chandan Chopra induced him to pay amount of Rs.50 lakhs in cash or through bank to him, Puneet @ Baljit, Uppal Property Dealer, Shera, Sapna, Tarun Chhabra, Jatin, Gautam, Vipin, Ajit, Jagdish, Jas. Amount of Rs.18 lakhs was paid to accused Chandan Chopra in September, 2015 who handed over receipt No.PSI68580 about deposit of Rs.18 lakhs to him. Thereafter, amount of Rs.32 lakhs was paid to accused Chandan Chopra in October, 2015. Total amount of Rs.3.5 crores was given to accused Puneet @ Baljit and Chandan Chopra and their accomplices who had sent badge etc. of Deputy Superintendent of Police to his son. He had the mobile phone recordings of conversations with accused Puneet @ Baljit. Gurmeet Singh PPS, Additional Deputy Commissioner of Police (Investigation), Jalandhar conducted enquiry and on the basis of his enquiry report and legal opinion of the District Attorney the above-said FIR was registered. Consequent to registration of FIR, the police investigated the case and arrested the petitioner on 21.12.2019 and on completion of investigation filed charge-sheet against the petitioner on 16.03.2020. During pendency of the present petition co-accused Puneet @ Baljit and his wife have been arrested.

The petitioner, who is in custody since 21.12.2019, has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel in terms of reply and status report filed by way of affidavit of Sh. Bimal Kant, PPS, Assistant Commissioner of Police, Head Quarter

Jalandhar and by learned Counsel for the complainant. However, the complainant has not filed any reply to the petition.

I have heard arguments addressed by Mr. R.S. Cheema, learned Senior Counsel for the petitioner, Mr. Sukhbeer Singh and Mr. H.S. Multani, learned State Counsel and Mr. Ravinder Singh Randhawa, learned Counsel for the complainant and have gone through the relevant record.

Mr. R.S. Cheema, learned Senior Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case on false, fabricated and made up allegations. As per allegations made by the complainant the fraud commenced in August, 2015 but the complaint was made in the year 2019 with undue and unreasonable delay of more than four years. The petitioner was not the beneficiary of the fraud or partner in crime and he was acting on behalf of the complainant to mediate with main accused-Puneet @ Baljit who was classmate of the petitioner and also son of the complainant, as mentioned by Gurmeet Singh PPS, Additional Deputy Commissioner of Police (Investigation), Jalandhar in his enquiry report. No money was deposited in the account of the petitioner by the complainant and the investigating agency had totaled cash deposited in the bank account of the petitioner to exaggerate and sensationalized the matter. A false case has been foisted against the petitioner with an ultimate motive of extracting from him money which has been swindled away by the main accused Puneet @ Baljit. The conversations recorded by the complainant, transcripts of which have been attached with the petition, show that the petitioner had dissuaded the complainant from entering

into such a misadventure with accused-Puneet @ Baljit. The falsity of the complaint against the petitioner can be deciphered from numerous improvements and contradictions made by the complainant in his statement under Section 161 of the Cr.P.C., including the averments as to the amount given to the petitioner, to falsely implicate the petitioner in the present case. The manner in which the money amounting to crores of rupees was paid to persons named in the complaint for payment to the main accused is difficult to digest. There was willful non-investigation by the investigating agency on vital aspects as to meeting with Ram Kishan alleged to be Personal Assistant to P.W.D. Minister, Haryana Government and Sadhu Ram, Deputy Superintendent of Police, Sirsa and other persons involved which clearly points towards their complicity and lack of proper investigation. The investigating agency has exonerated and given clean chit to Shera, bus conductor, who was as per the allegations made in the complaint handed over an amount of Rs.2.50 crores during the period on different dates. Said Shera is neither accused nor prosecution witness. Even the source of the amount given is not explained as out of the 22 sale deeds executed by the complainant as mentioned 19 sale deeds were as general power of attorney implying that the money belonged to the persons executing the same. Telephonic conversations as well as the documents placed on record by the prosecution show that the acts of forgery were committed by the main accused Puneet @ Baljit and the same are not attributed to the petitioner who cannot be held criminally liable for the same. The petitioner is not involved in any other criminal case. The petitioner will not flee from justice and temper with evidence

or intimidate with the witnesses in any manner. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail. In support of his arguments learned Senior Counsel for the petitioner has placed reliance on the observations made by Hon'ble Supreme Court in ***Sanjay Chandra Vs. CBI : 2012(1) SCC 40; Bhadresh Bipinbhai Sheth Vs. State of Gujarat and another : 2016(1) SCC 152*** and ***Gurbaksh Singh Sibbia and others Vs. State of Punjab : 1980(2) SCC 565***.

On the other hand, Mr. H.S. Multani, Asstt. A.G. Punjab, learned State Counsel and Mr. Ravinder Singh Randhawa, learned Counsel for the complainant have argued that the allegations made against the petitioner are serious and the petitioner is the main accused who in conspiracy with his co-accused Puneet @ Baljit cheated the complainant and dishonestly induced him to part with amount of Rs.3.5 crore on the fraudulent assurance of getting his son appointed as Deputy Superintendent of Police in the State of Punjab. The payment of amount of Rs.50 lakhs had been made by the complainant to the petitioner. Documents in question were forged by the petitioner and his co-accused. The petitioner will abscond and temper with evidence or intimidate the witnesses, if released on bail. The present case involves socio-economic offences of fraud and forgery and is required to be sternly dealt with. The petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed. In support of his submissions learned Counsel for the complainant has also placed reliance on the observation made by this Court in ***State of Bihar and another Vs. Amit***

Kumar @ Bachaha Rai : 2017 (13) SCC 751; Rohit Tandon Vs. Directorate of Enforcement : 2018(11) SCC 46 and CRM-M-50819-2019 titled as 'Manjeet Walia Vs. State of Haryana' decided on 06.03.2020.

In the present case the complainant as per his own allegations paid the amount involved as unlawful consideration for appointment of his son as Deputy Superintendent of Police in the State of Punjab through corrupt means and the transaction involved being contract against public policy was void ab initio. In the facts and circumstances of the case the offences involved in the present case, though heinous having serious adverse impact on the society, cannot be said to be socio-economic offences in the natural meaning of the expression qua the complainant who is also liable to be treated as abettor having agreed to influence the public servants by payment of the unlawful consideration. The rule of law would have been a casualty at the hands of the Deputy Superintendent of Police, appointed through such corrupt means if the complainant had succeeded in his misadventure, whose endeavour would have always been to harvest on the investment made. The observations in ***State of Bihar and another Vs. Amit Kumar @ Bachaha Rai : 2017 (13) SCC 751*** and ***Rohit Tandon Vs. Directorate of Enforcement : 2018(11) SCC 46*** are not applicable to the facts of the present case. The mere fact that the amount alleged to have been paid by the complainant is very high does not by itself warrant rejection of the bail application of the petitioner particularly when the amount was paid to the main accused Puneet @ Baljit. Reference in this regard may be made to judicial precedent

reported as ***Fida Hussain Bohra Vs. The State of Maharashtra : 2009(2) RCR (Criminal) 265.***

The object of detention during investigation and trial is not punishment but to secure presence of the accused during investigation and trial. Bail is the rule and committal to jail is an exception as held in ***Gurbaksh Singh Sibbia and others Vs. State of Punjab : 1980(2) SCC 565.*** Accused is presumed to be innocent till proved to be guilty. Detention in custody may be a cause of great hardship to the accused as he may, besides being subjected to the psychological and physical deprivations of jail life, lose his job, be prevented from contributing to the preparation of his defence and burden of his detention may fall heavily on the innocent number of his family as held by Hon'ble Supreme Court in ***Moti Ram Vs. State of M.P. : (1978)4 SCC 47.*** While considering the question of grant of bail, the Court has to keep in mind (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail. (See ***State of U.P. Vs. Amarmani Tripathi, (2005)8 SCC 21; Sanjay Chandra Vs. CBI : 2012(1) SCC 40*** and ***Bhadresh Bipinbhai Sheth Vs. State of Gujarat and another : 2016(1) SCC 152.***

Keeping in view the facts and circumstances of the case,

nature of accusation and evidence against the petitioner, the offences being triable by Judicial Magistrate Ist Class, the quantum of sentence which his conviction may entail, the fact of accused-Puneet @ Baljit being the main accused and beneficiary of fraud who had received the entire money as per the allegations made in the complaint and recorded in the telephonic conversations, also the fact that no amount was credited to the account of the petitioner by the complainant or has come from co-accused, there being no reasonable ground for the apprehension as to the petitioner fleeing from justice, tempering with evidence or intimidating the witnesses and non-involvement of the petitioner in any other case coupled with the fact that trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and also due to pendency of investigation qua other accused but without meaning to comment on merits as the same may cause prejudice to either of the parties, I am of the considered view that the petitioner deserves grant of regular bail.

In view of the above discussion, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.10.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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