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IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CRM-M-19764-2020

Date of Decision: 13.10.2020

HARMINDER @ PAL MASHI

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

Present: Mr. S.K. Daaria, Advocate for petitioner.

Mr. N.K. Banka, DAG, Punjab.

MAHABIR SINGH SINDHU, J.

This is 4th petition under Section 439 of Cr.P.C. for grant of bail pending trial to petitioner in case FIR No.45 dated 23.05.2018 under Sections 406, 420, 304, 201, 120-B IPC 1860; Section 12 of Passport Act 1967; Section 24 of Immigration Act 1983 and Section 13 of the Travel and Professional Regulation Act, 2014 registered at Police Station Lohian, District Jalandhar.

Brief facts of the case are that petitioner and co-accused Jasvir Singh had assured the complainant that they will send his son Veerpal Singh to Italy and get a job for him there. Complainant agreed to the above offer and deal was finalized for a sum of Rs.10,00,000/-. Thereafter, on 09.08.2017, co-accused Jasvir Singh received a sum of Rs.3,00,000/- alongwith passport of Veerpal Singh from complainant and both the

accused gave an assurance to him that they will immediately arrange VISA to Veerpal for Italy. In the month of October 2017, both the accused informed the complainant that they have arranged VISA of Italy for Veerpal and demanded remaining amount. On 09.10.2017, complainant paid an amount of Rs.2,00,000/- to co-accused Jasvir Singh and thereafter, on 05.11.2017, both the accused called Veerpal Singh to Delhi for sending him abroad. When he (Veerpal) reached Delhi, both the accused demanded remaining amount; but they were told by complainant that amount would be paid to them only after boarding the flight by Veerpal for Italy. Thereafter, both the accused made arrangement of Veerpal to board the flight for Italy and complainant came back to his village. An amount of Rs.4,50,000/- was handed over to both the accused by the complainant; out of which Rs.2,00,000/- were withdrawn from the bank; whereas Rs.2,50,000/- were borrowed from Mukhtiar Singh; thus, both the accused received total amount of Rs.9,50,000/- from the complainant. After some time, Veerpal Singh informed the complainant that both the accused have cheated them as instead of Italy, he has been sent to Serbia by playing a fraud. As per information of the complainant, some other boys were also sent abroad by both the accused in similar way. Petitioner as well as co-accused Jasvir Singh pushed Veerpal Singh in a canal and that resulted into his death, thus, both the accused have cheated the complainant and murdered his son.

Counsel for the petitioner made two-fold submissions i.e. (i) petitioner is in custody since 20.12.2018 and trial is likely to take sufficient

long time in view of present pandemic; (ii) he is suffering from chronic diseases including diabetes as well as kidney problems and prayed for bail.

On the other hand, learned State counsel opposed the prayer and made reference to medical report annexure R-1, prepared by Medical Officer, Central Jail, Kapurthala.

Heard both sides and perused the paper book.

Relevant part of the medical report Annexure R-1, reads as under:-

“Harminder Masih S/o Bhagat Masih is a known case of diabetes Mellitus and taking medicine for same. Patient had history Renal transplantation in 2016 of right side as per history given patient.

Patient was referred to Civil Hospital Kapurthala on 21/08/2019 where his ultrasound was done and patient was further referred to GMC Amritsar for further evaluation where condition of patient was assessed and medicine was prescribed.

Harminder Masih S/o Bhagat Masih was again referred to GMC Amritsar on 05/02/2020. As per the record he was operated on left foot and middle finger of the left foot was amputated. Patient was sent to Central Jail Kapurthala on 26/02/2020.

Harminder Masih S/o Bhagat Masih was referred for routine check-up to Civil hospital, Kapurthala on 16/04/2020 where he was given treatment. His Ultrasound was done and patient was returned to Central Jail Kapurthala on the same day. Harminder Masih S/o Bhagat Masih was referred to civil hospital Kapurthala for routine check-up on 02/05/2020 where condition of patient was assessed and patient was advised to continue treatment as prescribed by GMC Amritsar.

Patient was again referred to GMC Amritsar for check-up on 20.07.2020. Harminder Masih S/o Bhagat Masih was tested for

Covid-19 test on 25.07.2020. The result of the test was negative.

Harinder Masih S/o Bhagat Masih was then referred to GMC Amritsar on 17.08.2020. He was admitted to GMC Amritsar and was give medication. He was discharged from GMC Amritsar on 23.08.2020. Patient came back to jail on 23.08.2020.

Harinder Masih S/o Bhagat Masih was referred to PGI Chandigarh for further investigation and treatment on 06/09/2020, and a doctor of PGI Chandigarh prescribed medication.

Presently he is admitted at jail hospital and is advised same medicine as advised by PGI Chandigarh.”

From perusal of the medical report extracted hereinabove, it is apparently clear that petitioner has been treated in three different hospitals i.e. (i) Civil Hospital, Kapurthala, (ii) Government Medical College, Amritsar as well as (iii) PGIMER, Chandigarh. It is also necessary to mention here that petitioner is being provided the prescribed medicines by the Jail authorities, thus, he is getting the proper treatment as on today.

Also relevant to mention here that apart from the present case, petitioner is facing five more criminal cases and out of them, details of three are as under:-

- i) FIR No.65 dated 22.04.2001, under Sections 406, 420, 120-B IPC, P.S. Phillaur, District Jalandhar;*
- ii) FIR No.5 dated 02.02.2018 under Section 420 IPC and Section 13 of Punjab Prevention of Women Smuggling Act, 2012 (now Punjab Travel Professional Regulation Act, 2014);*
- iii) FIR No.58 dated 01.08.2005 under Section 406, 420, 506 IPC, PS Kumbh Kalan, Ludhiana;*

No doubt, petitioner is in custody since 20.12.2018 and trial is likely to take some time, but in view of the fact that this is the 4th petition and more particularly, he is facing five more criminal cases, thus, no ground is made out for grant of bail pending trial to him.

Consequently, the petition is dismissed.

However, in view of the period of custody in this case, learned trial Court is requested to expedite the trial, if there is no legal impediment.

Observations made above may not be construed as an expression of opinion on merits of the case, in any manner; rather confined to the present bail matter only.

13 October, 2020
rajender

(MAHABIR SINGH SINDHU)
JUDGE

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