

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-31099-2020 (O&M)

Date of decision: 08.10.2020

Birpal @ Virpal

.....Petitioner

versus

State of Haryana

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Parmod Kumar, Advocate
for the complainant.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Birpal @ Virpal, stated to be aged 48 years, has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.536 dated 13.11.2019, registered under Sections 406, 420, 506 & 370 of Indian Penal Code and Sections 10 & 20 of Immigration Act, at Police Station Kurukshetra University, Kurukshetra, District Kurukshetra.

Learned counsel for the petitioner, based on the pleadings, submits that the allegations in the FIR are against many accused namely Rishipal, Shamsheer Singh etc. It is stated in the FIR that brother of the complainant was made to board a flight for Ecuador on 23.06.2018. It is

also alleged that the petitioner is brother-in-law (Jija) of the complainant and the only allegation in the FIR is that he had introduced the complainant to the co-accused/Rishi Pal.

On instructions from ASI Sudesh Kumar, learned State counsel submits that challan in this case was presented on 24.08.2020, after completing the investigation. It is further submitted that there are total of 11 witnesses, out of which, none has been examined till date.

Learned counsel Mr. Parmod Kumar, appearing for the complainant, submits that there is a document which was also shown to the Court of Additional Sessions Judge, Kurukshetra, wherein, the petitioner himself had allegedly agreed that Rs.19,50,000/- were received by him. He submits that since a huge amount of Rs.35,00,000/- was involved, if the petitioner be granted bail, he is likely to abscond and the complainant will not be able to get the disputed amount back.

Faced with the situation, learned counsel for the petitioner submits that he has instructions from the petitioner and his family members, to submit that the petitioner would deposit Bank guarantee/original property papers (worth more than Rs. 20 lacs), with the trial Court, as security till the conclusion of trial with an undertaking that he would neither alienate the said property nor create incumbrance on the same. The petitioner would also give a further undertaking that he will not involve himself in any subsequent case and in case, he is found involved and found guilty in any other case, the above said property can be confiscated and the amount realized from it, be deposited in the Government treasury.

Learned counsel for the petitioner also submits that in view of the COVID situation, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the peculiar facts noticed above and the present situation due to COVID-19 and also the fact that trial is likely to take some time, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In addition to the above said bail/surety bonds, in pursuance to the offer made by counsel for the petitioner, the petitioner would deposit (within one month from the date of his release), Bank guarantee/original property papers, worth more than Rs. 20 lacs (in the name of petitioner or any of his relative) to the trial Court, which shall remain as security till further orders of the trial Court. The petitioner is also directed to give an undertaking that he would neither alienate the said property nor create any incumbrance on the same during trial or till further orders of the Court. The petitioner would also give an undertaking that he will not involve himself in any other case and in case, he is found involved in any other subsequent case (today onwards) and found guilty, the above said Bank guarantee/property shall be confiscated and the amount realized from it, shall be deposited in the Government treasury. The above said offer shall be without prejudice to the defence of the petitioner before the trial Court.

However, it is made clear that anything observed herein shall not

be construed as an expression on merits of the case.

Accordingly, the present petition stands disposed of.

(GIRISH AGNIHOTRI)
JUDGE

08.10.2020

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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No