IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.35475 of 2020
Date of Decision: 12.11.2020

Dr. Jogender Singh ......Petitioner

Vs

State of Haryana
.....Respondent

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. J.S. Bedi, Senior Advocate with
Mr. Sunil Sihag, Advocate
for the petitioner.

Ms. Sheenu Sura, D.A.G., Haryana.

****

RAJ MOHAN SINGH, J.

[1]. The case was taken up for hearing through video conferencing.

[2]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.3 dated 10.09.2019, registered under Sections 406, 420, 466, 467, 468, 471 and 120-B IPC, 1860 at Police Station State Vigilance Bureau, Panchkula.

[3]. The allegations in the FIR are that Welfare Minister, Government of India in the month of July, circulated scholarship post matric scheme. Under the scheme, post matric students getting admission in post matric courses belonging to scheduled

caste are paid scholarship of Rs.230/- to Rs.1200/- per month and non-refundable fees. Before 2015, the scheme was conducted manually. In 2015-16, the scheme was online for which Trigma company prepared a software for which the concerned department made the agreement in the year 2017. The allegations are of fraudulent means to usurp the scholarship amount.

[4]. During investigation, it has been alleged that 41 students of District Yamunanagar were shown to be studying in different course of OPJS University, Churu Rajasthan and applications were made on their behalf for getting scholarships. During investigation from those students in respect of receiving scholarships by them and in respect of their studying in OPJS University, Churu Rajasthan, they submitted that they have not taken any admission in the aforesaid University, nor made any application for getting scholarship.

[5]. It has been alleged that one Gurdev Kaur along with her daughter Ritik Singh and Mayank Chaudhary, runs an NGO had got admitted 41 students of District Yamunanagar in OPJS University, Churu Rajasthan in which the petitioner was the Chairman and the aforesaid persons got opened bank accounts of 28 students and retained their passbooks and ATM Cards with them and thereafter when the scholarship amount was

transferred in the accounts of the students, the said amount was withdrawn by them and in this manner they have siphoned off an amount of Rs.24,51,760/-. The prosecution has further alleged that though the admission of 41 students has been shown in OPJS University, Churu, but the students never took admission in the said University in any course.

[6]. Learned counsel for the petitioner submitted that though the petitioner has been named in the FIR along with other co-accused, but there is no specific allegation against him. It was Gurdev Kaur, who along with her daughter Ritik Singh and Mayank Chaudhary had admitted 41 students in OPJS University in different courses in the year 2015 and out of these 41 students, bank accounts of 28 students were got opened by the them at Yamunanagar and they had retained the passbooks and ATM cards of those students.

[7]. Learned counsel further submitted that the petitioner is in custody since 07.09.2020. Petitioner has been falsely implicated in the case by virtue of his designation as Chairman at one point of time. Petitioner has no role to play in the alleged offence which took place in the academic years 2015-16, 2016-17 and 2017-18 whereas the petitioner had resigned on 20.03.2015 from the Chairmanship of University and his resignation was accepted on 29.03.2015. Since 01.04.2015,

petitioner is working with O.K. India News Channel. Co-accused Gurdev Kaur and Ritik Singh have been granted regular bail by the Sessions Court. Co-accused Rahul has already been granted regular bail by the Judicial Magistrate Ist Class. There is no incriminating material available with the prosecution except the disclosure statement of the accused. Petitioner is not beneficiary, nor has received any amount.

[8]. Learned counsel further submitted that even in case of economic offences, conditions can be imposed while granting regular bail. Learned counsel by referring to ***Sanjay Chandra vs. CBI, 2012(1) SCC 40; Bhadresh Bipinbhai Sheth vs. State of Gujarat and another, (2016) 1 SCC 152; Bhagirrathsinh vs. State of Gujarat, (1984) 1 SCC 284*** and ***Arnesh Kumar vs. State of Bihar, (2014) 8 SCC 273; Criminal Appeal No.1831 of 2019 (Arising out of S.L.P. (Criminal) No.10493 of 2019)*** titled **'*P.Chidambaram Vs. Directorate of Enforcement*'** decided on 04.12.2019 further submitted that basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same, the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to

be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would fall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstances, while considering the application for bail, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the Legislature nor does the bail jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the conclusion will have to be on case to case basis on the facts involved therein and securing the presence of the accused to stand trial.

[9]. I have considered the submissions made by learned counsel for the parties.

[10]. In ***Sanjay Chandra's case*** (supra), the Hon'ble Apex Court has held that it is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the accused is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter the Court from enlarging the accused on bail when there is no serious contention of the State that the accused, if released on bail, would interfere with the trial or tamper with evidence.

[11]. Keeping in view the aforesaid factual position, I deem it appropriate to negate the contention of learned State counsel for dismissal of the bail in view of serious allegations and pending investigation of the case. Petitioner is in judicial custody since 07.09.2020 and is not required for any further investigation of the case. The offences are triable by the Magistrate.

[12]. At this stage, without adverting to the merits of the case and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail.

[13]. In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[14]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

November 12, 2020
Atik

Whether speaking/reasoned Yes/No

Whether reportable Yes/No