

CRM-M-44672 of 2019

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

CRM-M-44672 of 2019
Date of Decision: 10.02.2020

Premjibhai Amthubhai Vadecha alias Vadecha Premjibhai alias Warcha
...Petitioner

Versus

State of U.T. Chandigarh
....Respondent

CRM-M-3625 of 2020

Padam Singh Chauhan
...Petitioner

Versus

Union Territory, Chandigarh
....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. M.K. Dhot, Advocate,
for the petitioner in CRM-M-44672 of 2019.

Mr. Vivek Kathuria, Advocate,
for the petitioner in CRM-M-3625 of 2020.

Mr. Parveen Chauhan, Advocate,
for Mr. G.D.S. Wasu, APP, U.T., Chandigarh.

Mr. Bimal Maini, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

Learned counsel has filed separate vakalatnamas in both the petitions on behalf of the complainant on his own, though he has not been impleaded as party. The same are taken on record.

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By this common order, I shall dispose of above-titled two petitions filed by Padam Singh Chauhan and Premjibhai Amthubhai Vadecha alias Vadecha Premjibhai alias Warcha under Section 439 Cr.P.C. for grant of regular bail in a case arising from FIR No.47 dated 20.03.2017 registered under Sections 420, 120-B IPC, and later on added Sections 465, 468, 471 IPC at Police Station Sector 26, Chandigarh.

According to prosecution, petitioners on credit purchased apples from the complainant worth Rs.46,64,280/-, out of which petitioners paid a sum of Rs.28,44,200/-. Despite repeated requests, petitioners did not pay remaining amount of Rs.18,23,080/- to the complainant. Finally, petitioners stopped responding to the telephonic calls of the complainant. Resultantly, complainant inquired about the antecedents of the petitioners and found that they were not running any firm, as alleged by them in the name and style of Parkash Fruit Company. They have cheated the complainant for the aforesaid amount.

Learned counsel *inter alia* contend that petitioners, being residents of far away State of Gurjarat, are ready to furnish heavy sureties and their undertaking to appear on each and every date during trial. Petitioner Premjibhai Amthubhai Vadecha alias Vadecha Premjibhai alias Warcha is in custody since 19.02.2019 and Padam Singh Chauhan since 06.06.2018. Allowing application of the prosecution under Section 319 Cr.P.C. two more persons, namely, Bharat and Krishan Kant have been summoned as additional accused to face trial, who are still at large. Thus, trial has become *de novo* and would take sufficient long time in its

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conclusion inasmuch as proceeding of the same now depends upon arrest/surrender of aforesaid two additional co-accused. No recovery has to be effected from the petitioners. Thus, no purpose is going to be served by detaining the petitioners any more in jail. Considering their long custody, they may be granted bail.

On the other hand, learned counsel for U.T., Chandigarh, assisted by learned counsel for the complainant, vehemently opposed the grant of regular bail to the petitioners.

Agreeing with the contentions of learned counsel for the petitioners that trial has become *de novo* after summoning of two persons as additional accused, long custody of the petitioners and the fact that now trial would take sufficient long time in its conclusion, this third petition of petitioner Padam Singh Chauhan inasmuch as first one was dismissed as withdrawn and second was dismissed in March, 2019, but without expressing any opinion on the merits of the case, the instant petition and the connected petition are allowed. Consequently, petitioners – Premjibhai Amthubhai Vadecha alias Vadecha Premjibhai alias Warcha and Padam Singh Chauhan are ordered to be released on bail during pendency of trial, if not required in any other case, on their furnishing bail bonds and two heavy local surety bonds in the sum of Rs.18,23,080/- to the satisfaction of Trial Court/Duty Magistrate concerned. Condition on petitioners to furnish heavy surety bonds has been imposed considering the fact that they are permanent residents of Gurjarat, which is far away from the Union Territory of Chandigarh. In case, petitioners absent during trial, it would be difficult

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to secure their presence.

February 10, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

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