

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

206**CRM-M-44011-2019****Date of Decision: 28.07.2020.**

Kharak Singh

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Abhayjeet Singh, Advocate for
Mr. F.S. Virk, Advocate for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, AAG, Haryana.

Suvir Sehgal, J.

The Court has been convened through video conferencing due to Covid-19 pandemic.

Status report by way of affidavit of Sukhbir Singh, HPS, ACP, Badhkal, District Faridabad has been filed. Same is taken on record.

Petitioner, namely, Kharak Singh, son of Shiv Charan, has filed the present petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.674 dated 12.12.2017, under Sections 406, 420, 467, 468, 471, 120-B and 506 IPC and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, registered at Police Station Faridabad Kotwali, District Faridabad.

As per the version of the prosecution, the above mentioned FIR was registered on complaint of one Deepak son of Jai Parkash, wherein he stated that he was an employee of M/s Hello Distribution Pvt. Ltd. (in short, "M/s HDPL"). The petitioner was one of the directors and promoters of the said company. M/s HDPL engaged the complainant as a Requirement

Officer on deposit of Rs.20,000/-. The complainant was offered a monthly salary of Rs.20,000/- and was asked to introduce 500 members to the company who will contribute Rs.1,000/- per month for 17 months. On a draw held every month, one member will get 32 inches LED TV and the remaining members who do not succeed in the monthly draws will be given LED TV on completion of 17 months. The complainant introduced 400 members to the company, who paid Rs.1,000/- each. In all, 21,000 members joined the scheme. When the time came for delivering the LED TV, the petitioner and other co-accused started delaying and eventually refused to fulfil their promise. During the course of investigation, it was found that the petitioner and four other accused, namely, Bhisham Chauhan, Vishal Beniwal, Tarun Singh and Surinder were the directors of M/s HDPL. The petitioner was arrested on 26.02.2019 and is in custody since then.

Counsel appearing for the petitioner has urged that no offence is made out against the petitioner as the petitioner neither cheated anybody nor forged any document. He submitted that in fact, the petitioner was the one who had been cheated and he had submitted a representation dated 2.11.2017 (Annexure P2) with the Commissioner of Police, Faridabad much prior to the registration of the FIR in question. It was further argued that Bhisham Chauhan and Vishal Beniwal were managing the affairs and had taken over the financial transactions of the company. An argument has been raised that Tarun Singh and Pankaj Sharma had incorporated another company by the name of M/s Auston Company for purchase of LED TV for M/s HDPL and said Bhisham Chauhan transferred a sum of Rs.2,25,00,000/- in the company of Tarun Singh and Pankaj Sharma and they committed fraud and cheating. Still further, it has been urged that the

challan has already been presented, charges have been framed but till date no witness has been examined by the prosecution.

Opposing the prayer for bail, State counsel, on instructions from SI Ishwar Singh, has submitted that during investigation an account ledger was produced by the accountant of the company from where it emerged that in all a sum of Rs.22,48,46,700/- was collected by the accused. Out of this money, a sum of Rs.52,67,640/- was received by the petitioner but nothing has been recovered from him as he has allegedly spent the money. State counsel further submitted that Rs.61,25,000/- was transferred in the account of accused- Vishal Beniwal and Rs.1,67,38,998 were transferred to the account of Bhisham Chuahan. It has been further urged that one of the employees of the company, who was working as an agent, had committed suicide. An FIR under Section 306 IPC had been separately registered in which the petitioner is one of the accused. State counsel points out that the challan was presented on 11.05.2019 and the matter is under trial and the next date for recording of prosecution evidence is 21.08.2020. He has expressed an apprehension that if released on bail, the petitioner may flee from the country.

I have considered the rival submissions of the parties.

From a perusal of the status report filed by the State, it appears that the petitioner prima facie seems to have played a direct and active role in the running of M/s HDPL. The petitioner has not only been specifically named in the FIR but there also seems to be sufficient material with the investigating agency regarding the complicity of the petitioner in the crime. The quantum of money collected in the unauthorised chit Funds Scheme being run by the petitioner and other accused is enormous, out of which

substantial money has gone into the pocket of the petitioner which is yet to be recovered.

From the status report it appears that all the accused are hand in glove with each other. They collected huge money from the gullible public by giving false assurance.

Apart from the present case, the petitioner is involved in four other cases, the details of which are as under:-

“(i) FIR No.1452 dated 05.12.2017, under Sections 420, 406, 120-B IPC and Section 3 of The Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, registered at Police Station City-Ballabgarh, District Faridabad. The next date in the said case before the trial Court is 21.08.2020.

(ii) FIR No.619 dated 06.12.2017, under Section 306 IPC, registered at Police Station-Sadar Ballabgarh, District Faridabad. The next date in the said case before the trial Court is 07.09.2020.

(iii) FIR No.598 dated 11.12.2018, under Section 174-A IPC, registered at Police Station Sadar Ballabgarh, District Faridabad. In this case the petitioner has already been convicted on 18.07.2019 by the Judicial Magistrate Ist Class, Faridabad.

(iv) FIR No.153 dated 22.03.2019, under Section 174-A IPC, registered at Police Station Sadar Ballabgarh, District Faridabad. In this case the petitioner has already been convicted on 08.08.2019 by the Chief Judicial Magistrate, Faridabad.

(v) FIR No.163 dated 30.09.2019, under Section 174-A IPC, registered at Police Station Kotwali, District Faridabad. In this case the petitioner has already been convicted on 06.09.2019 by the Judicial Magistrate Ist Class, Faridabad.”

Case at serial No.(i) above is yet another FIR of a similar nature against the petitioner and other co-accused. Case at serial No.(ii) was registered as an agent of M/s HDPL allegedly committed suicide as M/s HDPL did not fulfil its commitment. Cases at serial Nos.(iii) to (v) were registered against the petitioner as he was declared an absconder.

The antecedents of the petitioner do not warrant grant of bail to him. The petitioner has been playing hide and seek with the Court. Case at serial No.(v) above was registered against the petitioner as he was declared proclaimed offender in the present FIR. He stands convicted in all the three FIRs registered against him under Section 174-A IPC. Therefore, the apprehension of the prosecution that the petitioner is a 'flight risk' cannot be ignored.

Taking a comprehensive view of the above facts and circumstances, this Court is not inclined to release the accused on bail. Accordingly, the present petition filed on behalf of accused-petitioner stands dismissed.

It is clarified that any observation made hereinabove shall not be construed as an expression on the merits of the case and it will be open to the trial Court to decide the case on its own merits.

28.07.2020

komal/savita

(SUVIR SEHGAL)
JUDGE

Whether speaking/ reasoned : Yes

Whether Reportable : Yes