

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.46334 of 2019 (O&M)
Decided on: 20.07.2020

Shiv Dutt Sharma

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Abhilaksh Grover, Advocate
for the petitioner (through video conferencing)

Ms. Tanushree Gupta, DAG, Haryana.
(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.15 dated 17.01.2017, for offence punishable under Sections 406, 420, 120-B of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Ellenabad, District Sirsa.

Counsel for the petitioner has argued that the petitioner was nominated in the FIR on the basis of the disclosure statement of the co-accused namely Mangi Lal, who has already been granted the concession of regular bail by this Court vide order dated 17.04.2018 passed in CRM-M No.1464 of 2018. The operative part of the said order, reads as under:-

“Learned counsel for the petitioner submits that the petitioner was arrested on 09.07.2017 and since then, he is in custody. It is further submitted that challan has already been presented against the petitioner and charges are yet to be framed and there are 200 prosecution

witnesses cited by the police who are yet to be examined. Counsel for the petitioner further submits that the offences are triable by the Court of Magistrate and it will take long time to conclude the trial and the petitioner is not involved in any other case.

Learned State counsel, on instructions from SI Raj Kumar and assisted by learned counsel for the complainants, has, however, opposed the prayer for bail of the petitioner on the ground that the allegations in the FIR are pertaining to a fraud of a huge amount of more than 5 crores of rupees.

Without commenting anything on merits of the case, considering the long custody period of the petitioner i.e. about more than 09 months and also in view of the fact that challan qua the petitioner has already been presented; the offences are triable by the Court of Magistrate and it will take long time to conclude the trial, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing two heavy sureties bonds to the satisfaction of the trial Court/Illaq Magistrate.

However, it is made clear that in case, any of the other co-accused is arrested or is sought to be investigated by the police, it will be open for the police to issue a written notice to the petitioner to join the investigation. It is also made clear that in case, the petitioner is found involved misusing the concession of bail, in any manner, it will be open for the prosecution to apply for cancellation of bail.”

Counsel for the petitioner has further submitted that there are allegation against the petitioner that he has collected some old currency notes, during the course of business dealings. It is further submitted that the petitioner is in custody since 29.09.2019 and challan

has already been presented and there are about 200 prosecution witnesses cited in the list of witnesses and the conclusion of the trial will take some time as the offences are triable by the Court of Magistrate.

In reply, counsel for the State has filed the affidavit of the Deputy Superintendent of Police, Kalanwali District Sirsa. In the affidavit, it is stated that the petitioner used to purchased paddy from the shopkeepers and farmers and store the same in godowns located in Sirsa, Ellenabad, Karnal and Rajasthan and thereafter, he used to sell the same. It is further stated in the affidavit that it has come in the disclosure of the co-accused Mangi Ram, Mani Ram, Sunder Lal Dalal, Lal Chand, Tara Chand and Mohit Kumar that a sum of Rs.20 lacs which was received from Amritsar in the shape of old currency notes was handed over to the petitioner for its conversion into the new currency notes, however, in the meantime, on account of demonetization on 08.11.2016, the said amount was misappropriated.

Counsel for the State has further submitted that even on an earlier occasion, the petitioner was declared a proclaimed offender and he was later on, arrested when he surrendered before the Court.

Counsel for the State has not disputed the fact that challan stands presented and as many as 200 prosecution witnesses have been cited in the case.

After hearing the counsel for the parties and looking into the allegation levelled against the petitioner; the custody period undergone by the petitioner and also in view of the fact that the main accused namely Mangi Lal, on whose disclosure the name of the

petitioner surfaced in the FIR, has already been granted the concession of regular bail by this Court and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it is made clear that in case, any of the other co-accused is arrested or is sought to be investigated by the police, it will be open for the police to issue a written notice to the petitioner to join the investigation. It is also made clear that in case, the petitioner is found involved misusing the concession of bail, in any manner, it will be open for the prosecution to apply for cancellation of bail.

20.07.2020
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(ARVIND SINGH SANGWAN)
JUDGE

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