IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-298-2021
DATE OF DECISION: 12.03.2021

Ashwani Oberoi …..Petitioner

versus

State of Haryana .....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner

Mr. Gaurav Gulzar Singh Chauhan, AAG Haryana
for the respondent

..

ALKA SARIN, J. :

Heard through video conferencing.

This is the second petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.922, dated 03.07.2018 under Sections 406, 419, 420, 467, 468, 471 IPC (Sections 120-B, 201 IPC added later on) registered at Police Station Panipat City, District Panipat. The first petition under Section 439 CrPC was dismissed as withdrawn on 06.11.2020.

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document

The allegations in the FIR are that one Renu Malhotra along with the petitioner and his sons (Achal Oberoi and Vatan Oberoi) have committed a fraud with the complainant (Sunil Ahuja). The fraud designed by the accused was that the said Renu Malhotra had pretended to have a contract in her favour from the Ministry of Human Resource and Development (MHRD), Government of India for supplying bedsheet, towels and blankets. The complainant was made to fall in a trap by the accused on the pretext that the said Renu Malhotra was not having sufficient funds to complete the liabilities under the contract in her favour. However, she had already deposited Rs.27 lakhs with the Government of India. The complainant was made to believe that if he gave that amount of Rs.27 lakhs to Renu Malhotra then the said contract, which had been awarded in her favour, could be transferred in favour of the complainant. All these negotiations are alleged to have been conducted with the active connivance and participation of all the accused. In the process, the complainant was made to transfer an amount of Rs.25 lakhs through bank transactions and Rs.2 lakhs in cash. Since the contract was claimed to be in favour of Renu Malhotra, therefore, the entire amount was got deposited in the account of Renu Malhotra. To instill confidence in the complainant, the petitioner had portrayed that Renu Malhotra is his sister and that she had been allotted Tender No.9091 ED May/2018 by MHRD. After the money was transferred in the account of Renu Malhotra, alleged of being the petitioner's sister, the petitioner sent a whatsapp message to the complainant with Work Order No.9091 dated 16.05.2018, purportedly issued by MHRD. Alongwith this letter, another letter was also sent which

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document

contained the entire details of the products which were required to be supplied. It is also alleged in the FIR that after the complainant had already transferred Rs.17 lakhs in the account of the said Renu Malhotra, the petitioner and his sons had visited the complainant at his house. There they had coerced the complainant by representing to him that Manoj Tiwari, Member of Parliament, through whom the entire work was stated to be accomplished, was upset with the complainant because he had not transferred the entire money and that his financial position had also not been found upto the mark for discharging the contract which could have been given to the complainant. It is thereafter that the balance money was transferred by the complainant to the account of the said Renu Malhotra. There are stated to be other transactions and incidents as well which show positive participation of the entire family of the petitioner in the process of the alleged cheating committed upon the complainant. The said Renu Malhotra and the family of the petitioner had even created some imaginary personalities like OSD to Member of Parliament. They had got the complainant to have telephonic conversation with certain, allegedly, higher personalities like film stars and Government officials. However, thereafter, a news report was published in the newspaper that the said Renu Malhotra has committed similar fraud with other persons as well. The complainant then contacted the petitioner who told the complainant that the said Renu Malhotra has gone somewhere for some work. On this the complainant got suspicious of the entire sequence of transactions and started demanding his money back. However, the petitioner threatened the complainant to get him killed. Accordingly, it was alleged that the complainant has been defrauded

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document

for an amount of Rs.27 lakhs by the accused persons mentioned in the FIR including the present petitioner.

Learned counsel for the petitioner has contended that the main accused Renu Malhotra has already been granted regular bail by the Additional Sessions Judge, Panipat vide order dated 23.10.2019 (Annexure P-7) and that a co-accused (Vatan Oberoi) has also been granted regular bail by the Additional Sessions Judge, Panipat vide order dated 28.11.2019 (Annexure P-9) and another co-accused (Achal Oberoi) has been granted anticipatory bail by this High Court vide order dated 10.09.2019 (Annexure P-10). As such, he has prayed that the petitioner be also granted bail on the ground of parity. Learned Senior counsel for the petitioner has also submitted that it is the petitioner and his family who have been cheated by Renu Malhotra against whom several cases are pending in Delhi and Haryana. He also contended that the petitioner is in judicial custody since 27.08.2020 and that the Supplementary Challan qua the petitioner has been prepared and charges are to be framed. Learned Senior counsel submitted that there is no other case pending against the petitioner.

The State has filed a reply dated 04.03.2021 by way of affidavit of Virender Singh, HPS, Deputy Superintendent of Police, City, Panipat. The reply discloses that investigations were launched by the Police upon receiving the complaint. During investigations, arrest warrants were issued for the four accused – Renu Malhotra, the petitioner, and his sons Anchal Oberoy and Vatan Oberoi. However, the four accused evaded arrest and on 16.07.2019 proceedings under Section 299 CrPC were initiated against them. The investigation was also entrusted to the Crime

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document

Investigating Agency-II, Panipat on 16.07.2019. According to the reply, apart from the present FIR, 7 more FIRs are lodged against accused Renu Malhotra. The reply also states that the petitioner surrendered in Court on 27.08.2020 and after completion of the investigation against the petitioner, final investigation report under Section 173 CrPC was prepared against him and submitted to the Court of Chief Judicial Magistrate, Panipat on 13.10.2020. It is stated that though there is no other case pending against the petitioner, if released on bail, the petitioner may influence the witnesses and he could also abscond. It is also averred that the son of the petitioner, Anchal Oberoi, is not cooperating with the Police in the investigation.

I have heard learned counsel for the parties. The accusations against the petitioner are serious. An individual has been defrauded of huge sums of money which have been traced but not recovered. The petitioner was actively involved with Renu Malhotra in cheating the complainant. He evaded arrest for over two years and ultimately surrendered in Court during which period the equipment/laptop and stamp of MHRD used to forge documents were destroyed. The behaviour of the petitioner does not inspire confidence. Further, charges are yet to be framed against the petitioner. Learned Senior counsel appearing for the petitioner has also not been able to point out the change in circumstance since the withdrawal of the first bail petition on 06.11.2020 apart from the period of custody of the petitioner.

In view of the above, I do not find this to be a fit case for grant of regular bail to the petitioner. Accordingly, the present petition is dismissed.

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document

It is made clear that nothing observed herein shall be treated as an expression of opinion on the merits of the case.

(ALKA SARIN)
JUDGE

12.03.2021
parkash

NOTE:
Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

PARKASH CHAND
2021.03.12 12:48
I attest to the accuracy and
integrity of this document