

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

1-A

CRM-M-2488-2021

Date of decision: 29.01.2021

Balraj Jagdish Chopra

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. R.S. Rai, Senior Advocate with
Mr. Sumit Jain, Advocate for the petitioner.

Mr. S.P.S. Tinna, Addl. A.G. Punjab
for respondent No.1-State.

ARUN KUMAR TYAGI, J

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') for grant of regular bail in case FIR No.33 dated 13.04.2015 registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 in Police Station Khamanon, District Fatehgarh Sahib to which Sections 464, 467 and 471 were added lateron.

First petition-CRM-M-10053-2019 filed by the petitioner for grant of regular bail was dismissed vide order dated 08.05.2019 and his second petition-CRM-M-4343-2020 for grant of regular bail and application-CRM-14982-2020 for grant of interim bail were dismissed vide order dated 11.08.2020 by this Court.

The petitioner has now filed third petition for grant of regular bail in view of the change of circumstances.

Pursuant to supply of advance copy of the petition, learned State Counsel has appeared and opposed the petition. However, no reply has been filed on behalf of the respondent-State.

We have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Senior Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case by the police in connivance with the complainant who by using his links in the corridors of power got the present false case registered against the petitioner and other accused in respect of dispute of purely civil nature regarding investment made by the complainant in the company of the petitioner which has been wrongly given colour of criminal offence. The petitions filed by the petitioner for grant of regular bail and interim bail were dismissed by this Court earlier but there is change in the circumstances. On completion of investigation challan was presented. Charges were framed on 17.05.2019 and since then the case is pending for prosecution evidence. Examination of the prosecution witnesses is yet to commence and not a single prosecution witness has been examined so far. The trial is a Magisterial trial involving the maximum sentence of 7 years. The petitioner, who is in custody since 29.12.2018, has already undergone detention of more than 2 years. The trial would take very long time due to number of prosecution witnesses to be examined and also restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. The petitioner would not abscond and influence the prosecution witnesses and undertakes not to leave the

country without prior permission of the Court. The petitioner will comply with terms and conditions to be imposed regarding his presence before the trial Court during trial. Learned Senior Counsel for the petitioner has accordingly prayed for grant of regular bail to the petitioner.

On the other hand, learned State Counsel has submitted that the petitions filed by the petitioner earlier for grant of regular bail were dismissed vide orders dated 08.05.2019 and 11.08.2020. No new ground for grant of regular bail to the petitioner is made out. The petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

No doubt, the previous petitions filed by the petitioner were dismissed by this Court vide orders dated 08.05.2019 and 11.08.2020 for detailed reasons mentioned therein but one of the important fact is that in a Magisterial trial which could attract maximum sentence of 7 years, the petitioner has already undergone detention of more than 2 years. Although, the trial had commenced with framing of charges on 17.05.2019 but has not progressed at all despite expiry of more than one and a half years since then and not a single prosecution witness has yet been examined. Evidently in the facts and circumstances of the case, trial is likely to take long time particularly in view of the restrictions imposed to prevent spread of infection of Covid-19. The right to speedy trial is a fundamental right and the same cannot be denied even to the petitioner on the ground of his previous mis-conduct which does not warrant his continued detention till conclusion of the trial even if the same gets delayed. The petitioner has

now stated in categorical terms that the petitioner would not abscond and influence the prosecution witnesses. The petitioner has also undertaken not to leave the country without prior permission of the Court and to abide by the terms and conditions regarding his presence during the trial.

Keeping in view the nature of accusation and evidence against the petitioner and the totality of the facts and circumstances of the case, but without meaning to express any opinion on merits of the case as the same may prejudice either of the parties, we are of the considered view that the concession of regular bail may now be extended to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal bond in the sum of Rs.1,00,000/- with bond of one surety in the like amount to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned subject to the condition that the petitioner shall not leave the country without permission of the Court and shall also cooperate in examination of the prosecution witnesses and in expeditious conclusion of the trial by not seeking unnecessary adjournments.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

29.01.2021
Kothiyal

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