

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.5671 of 2021
Date of decision:06.07.2021

Balraj

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

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

This is the third petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.228, dated 10.05.2020 registered for offence under Sections 34, 379-A, 420 IPC, 1860, (Sections 468, 471 IPC were added subsequently), registered at Police Station City Fatehabad, District Fatehabad.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the complaint of Rahul with the allegation that he was duped by the accused of a sum of Rs.20,000/- on the pretext of doubling the amount. The complainant was called on his mobile and asked to reach Fatehabad, where Balraj (present petitioner) and Satnam, who were in a car snatched the money from him and fled away from the spot.

Counsel for the petitioner urges that a false case has been foisted against the petitioner and the story narrated in the FIR is totally

unbelievable as it is not possible for the two accused to simultaneously snatch the amount from the complainant. He further submits that in case the petitioners had any mala fide intention, they would never disclose their identity to the complainant. Another aspect which he highlights to dispute the story is the fact that the accused were arrested on the day of the registration of the FIR and even the money was allegedly recovered from them on the same day. He has placed reliance upon the order dated 19.01.2021, Annexure P-3, whereby co-accused Satnam has been ordered to be released on bail by this Court in CRM-M-36073-2020. He urges that after the dismissal of the first petition by this Court, 18 years old son of the petitioner met with an accident and is bedridden, with no adult male member in his family to take care of him. He submits that though the petitioner is involved in two other criminal cases, but he is on bail in both. It is his argument that investigation is complete, challan has been presented and the petitioner, who is in custody since 10.05.2020 is no longer required for custodial interrogation, therefore, he deserves to be enlarged on bail during the pendency of the trial.

Per contra, learned State counsel upon instructions from SI Mahender Singh, has opposed the petition on the ground that the petitioner has a criminal bent of mind and does not deserve the concession of bail. Still further, he submits that recovery of cash of Rs.10,000/- as well as the car along with its number plate with the forged numbers and Registration Certificate has been effected from the petitioner, who has been specifically named in the FIR. Upon further instructions, he submits that challan has been presented on 16.06.2020, though the charge is yet to be framed.

I have considered the rival submissions of the parties.

In order to ascertain the medical condition of the son of the petitioner, this Court vide order dated 25.05.2021 directed the State to verify the documents relied upon by the counsel for the petitioner and submit a report. In response thereto, State has filed an affidavit dated 23.06.2021, wherein it has been stated as under:-

“4. That in compliance of order dated 25.05.2021, it is respectfully submitted that on 14.06.2021, in regard to treatment of petitioner's son named Sahil, verification was conducted from Medical Officer of Bharat Multispecialty Hospital, Hisar regarding the requirement of treatment in the future. Medical Officer gave in writing that patient was on regular OPD follow up and patient has come OPD on 15.06.2021 and patient need operation in near future. Relevant extract of information given by Medical Officer Bharat Multispecialty Hospital, Hisar is as under:

“Pt. Sahil bearing IPD no.3301/20, operated on 17/9/2020 for # Libia & fabula B/L. He was on regular OPD follow up and Pt has come OPD on 15/06/2021. Pt needs operation for # Libia Lft on union near future.”

True copy of application wrote (sic) by Investigating officer to Medical Officer, Bharat Multispecialty Hospital, Hisar and opinion of Medical Officer is annexed as Annexure R-1/T for the kind perusal of this Hon'ble Court.

5. That on 16.06.2021, investigating officer conducted inquiry from the residents of village Jandli Khurd and local residents apprised investigating officer that in the family of Sahil son of Balraj, there is one younger brother of Sahil who is 14 years old and one sister whose age is 16 years. Local residents apprised that Sahil has not cured properly and he walks with the assistance of another person and mother of Sahil (petitioner's wife) used to look after Sahil. True translated copy of verification conducted from local residents of village Jandli Khurd is annexed as Annexure R-2/T for the kind perusal of this Hon'ble Court. ”

Considering the handicap of the young son of the petitioner as well as his period of incarceration which by now is more than 13

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months, this Court is of the view that the petitioner deserves to be enlarged on bail.

Keeping in view nature of allegations and gravity of offence and the fact that despite the challan having been filed in June, 2020, the trial has not progressed due to the contagion, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate.

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth he shall not be involved in any criminal activity. In case, the petitioner violates the undertaking, it shall be open to the State to seek cancellation of bail.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

06.07.2021(SUVIR SEHGAL)
sheetalJUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No