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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.13197 of 2021 (O&M)

Date of decision: 29.04.2021

Nitish Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.C. Shahpuri, Advocate
for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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.352 dated 16.11.2019, for offence punishable under Section 420 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 406, 467, 468, 471, 120-B and 201 IPC added later) registered at Police Station Farakpur, District Yamuna Nagar.

Counsel for the petitioner has relied upon the orders dated 11.12.2020 and dated 15.03.2021 passed in CRM-M Nos.32814 and 41309 of 2020, vide which the co-accused of the petitioner namely Vikrant Sharma and Sandeep Rana were released on regular bail. The operative of the order dated 11.12.2020, reads as under:-

“Learned counsel for the petitioner has argued that the petitioner is in custody since 22.08.2020 and challan has been presented in the case. He submits that the petitioner is working in a reputed Multinational Company, whereas his wife is working in a Japanese Company. There

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is no allegation against the petitioner in the FIR and that is the reason, his name does not find mention in the case. Co-accused has named the petitioner in the case. It is merely on the basis of disclosure statement made by co-accused that the petitioner has played active role in preparing the forged documents using his Laptop and therefore, the petitioner has been implicated in the present case. He submits that the Laptop as well as mobile phone of the petitioner were taken into custody, but no incriminating evidence has been found and the same were not sent to the Forensic Science Laboratory.

Learned State Counsel, on instructions from SI Satish Kumar, does not dispute the custody period. However, she submits that the Laptop and mobile phone of the petitioner were taken into custody, but the same were never sent to the Forensic Science Laboratory.”

For the sake of brevity, the facts are not reproduced again.

Counsel for the petitioner has further submitted that the petitioner is in custody since 29.07.2020 and the complainant has already filed a complaint under Section 138 of the Negotiable Instruments Act against the co-accused of the petitioner namely Sandeep Rana, who has already been released on bail. It is further submitted that challan stands presented and it will take some time in conclusion of the trial due to COVID-19 situation.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is also submitted that charges are yet to be framed against the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 29.07.2020;

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the co-accused of the petitioner are already released on bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, 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 will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

29.04.2021

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No