216 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16050-2021
Date of Decision: 22.04.2021

Rajesh

......Petitioner

Vs.

State of Haryana

.........Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. P.S. Ahluwalia, Advocate,
for the petitioner.

Mr. Munish Sharma, A.A.G., Haryana.

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AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

This petition has been filed under the provisions of Section 439 Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 573, dated 12.12.2019 registered at Police Station Sector-5, District Panchkula, for the alleged commission of offences punishable under the provisions of Sections 406/420/120-B of the IPC.

Learned counsel for the petitioner submits that the petitioner having been charged with the commission of offences punishable under the provisions of Sections 406/420/120-B of the IPC, the maximum punishment that can be imposed upon him, even if he is eventually found guilty, is seven years rigorous imprisonment and therefore even the provisions of Section 437 (6) of the Cr.P.C. would come to his aid.

He further relies upon two judgments of the Supreme Court in **Ashok Dhingra** vs. **N.C.T of Delhi** (2009) 9 SCC 533 and **Sanjay Chandra** vs. **CBI** 2011 (4) RCR (Criminal) 898, from the latter of which he points to paragraphs 27 and 28, which read as follows:-

"27) In `Bihar Fodder Scam', this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose.

28) We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi."

(Emphasis applied by this court only)

Learned State counsel, on the other hand, submits that the petitioner and his co-accused having duped the complainant of a large sum of almost Rs. 1.5 crores, and his co-accused not having been arrested so far, they being residents of Canada, the petitioner does not deserve to be admitted to bail.

Mr. Ahluwalia, learned counsel for the petitioner, counters by submitting that the petitioner himself can at best be accused of having utilized only approximately Rs. 4 to 5 lacs of the amount alleged to 'have been duped', with the remaining large amount of Rs. 1.4 crores having been utilised by his co-accused.

Whereas the last contention of counsel for the petitioner would not make much of difference to his case in my opinion, looking at the fact that the amount was initially transferred to him after which he is stated to have transferred the 'bulk' of the amount to his relatives who are absconding, yet, in view of the judgment cited by learned counsel for the petitioner, which counsel for the State has not able to distinguish, further keeping in mind the fact that the petitioner has been in custody for about 07 months, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds in the sum of Rs. 5,00,000/- with two sureties of the like amount, to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate concerned.

Further he would report to the police station concerned on every Wednesday of the week, during the pendency of the trial.

April 22, 2021 **(AMOL RATTAN SINGH)**
nitin **JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	No.