

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

CRM-M-15819 of 2021
DATE OF DECISION :- July 05, 2021

Gurdiyal Singh **...Petitioner**

Versus

State of Haryana **...Respondent**

CRM-M-18388 of 2021

Ashwani Kumar @ Nittu **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Sahil Gupta, Advocate for the petitioner
in CRM-M-15819 of 2021.

Ms. Tanvi Jain, Advocate for the petitioner
in CRM-M-18388 of 2021.

Mr. Karan Garg, AAG, Haryana

The case has been taken up through Video Conferencing.

My this order shall dispose of two petitions for grant of regular bail bearing CRM-M-15819 of 2021 filed by Gurdiyal Singh and CRM-M-18388 of 2021 filed by Ashwani Kumar @ Nittu, both of them accused in F.I.R. No. 54 dated 12.2.2021 for offences under Sections 406, 419, 420, 467, 471, 473, 120-B IPC (Sections 419, 467, 471, 473 IPC added lateron) registered with Police station Ambala Cantt, District, Ambala.

Briefly stated the facts of the case as per prosecution story are that the criminal machinery in this case was set into motion by complainant Daljeet Seth, who in the written complaint submitted by him to the police had stated that in the year 2017, due to illness he could not attend the business of his firm M/s Banwari Lal and sons regularly and taking advantage of his absence, accused Amit Mittal in conspiracy with his co-accused Gurdiyal and Ashwani formed fake companies in the name of Star International and Kamdhenu Impex causing him loss of 1,69,75,000/-.

After registration of the F.I.R, the matter was investigated, during course of which it came out that Star International and Kamdhenu Impex were bogus and fake firms and a sum of Rs. 1,70,00,000/- had been transferred from account of M/s Banwari Lal and sons to those firms by preparing fake stamps and documents. Gurdiyal and Ashwani were arrested in this case. During course of interrogation they disclosed that the cheques issued by Amit Mittal from account of M/s Banwari Lal and sons in favour of Star International and Kamdhenu Impex had been got encashed by them and they used to get 2% of the cheque amount. Though they claimed that they were only working for Amit Mittal and had not committed any forgery. They had approached the Court of Additional Sessions Judge, Ambala carving for grant of regular bail, however, they were unsuccessful there, as such they have knocked a the door of this Court praying for grant of similar relief, which request is being opposed by the State counsel. Earlier complainant was being represented by counsel and on the last date of hearing she had put in appearance and offered opposition to the petitions but today there is no representation on behalf of the complainant.

I have heard learned counsel for the petitioners and learned

State counsel besides going through the record.

Learned counsel for the petitioners have contended that petitioners were just employees of Amit Mittal and had been getting the cheques encashed during course of their employment and they have nothing to do with forgery and fabrication of the record. Further more the matter has been compromised between the complainant and Amit Mittal. Though on the last date of hearing this fact was disputed by learned counsel for the complainant, however, the investigating officer was directed to record statements of the parties with regard to compromise and then gave a clear report about its scope. The investigating officer has since filed compliance report along with annexures, which be taken on record. He has categorically observed in para no. 8 that on the basis of contents of para no. 6 MOU, statement of witnesses Annexure R-3 and R-4, it is proved on the file that the complainant has compromised all the pending matters with accused Amit Mittal vide settlement/memorandum of understanding dated 29.5.2021 (Annexure P-7) and that on the basis of compromise accused Amit Mittal has deposited an amount of Rs.87 lakhs in the account of wife of complainant namely Veena Seth with Indian Bank, Ambala Cantt. and has further given an undertaking that he would clear the dues of the loan amount of M/s Banwari Lal and Sons of more than one Crore. On being asked, counsel for the petitioners have informed that challan has since been filed in the Court, however, charge is yet to be framed and the next date of hearing in the trial Court is 7.7.2021.

Under the circumstances, without going into the merits of the case, in view of the fact that the petitioners are in custody for more than four months i.e. w.e.f. 17.2.2021, the trial is yet to begin, inasmuch as the charge

has not been framed against them so far and the conclusion if trial is likely to take some time, especially when the functioning of the Courts has been adversely effected on account of outbreak of Covid-19, the guilt shall be determined during the trial and as reported by the investigating officer, the matter has been compromised between the complainant and the main accused, I find it proper and appropriate to accept both the petitions and to allow regular bail to the petitioners.

Resultantly, both the petitions are allowed and petitioners Gurdiyal Singh and Ashwani Kumar @ Nittu are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Ambala subject to the following conditions :-

- (i) they shall appear in the Court on each and every date of hearing.
- (ii) they shall not give any threat or intimidation to the prosecution witnesses.
- (iii) they shall not leave India without prior permission of the Court and shall surrender their Passports, if they have got one, otherwise to furnish affidavits in that regard.
- (iv) they shall not indulge in any criminal activity.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

(H.S. MADAAN)
JUDGE

July 05, 2021
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No