

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M-13371 of 2020 (O&M)

Date of Decision:13.12.2021

Avdhesh Mishra

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Shiv Kumar, Advocate, for the petitioner.
Mr. Munish Sharma, AAG, Haryana

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-26279 of 2020

Vide this application, the petitioner seeks to place on record statements of persons recorded under Section 161 of the Cr.P.C.

Notice is issued in the application, with Mr. Munish Sharma, learned AAG, Haryana, accepting notice at the asking of the court.

The application is allowed subject to all just exceptions, with the copies of the aforesaid statements taken on record collectively as Annexure P-3 with the accompanying petition.

CRM-M-13371 of 2020

On 16.03.2021 the following order had been recorded by this court, also reproducing therein the order dated 08.03.2021:-

“Case heard via video conferencing.

This petition has been filed under the provisions of Section 439

Cr.PC., for grant of 'regular bail' to the petitioner in case FIR No. 444, dated 19.11.2019, registered at Police Station City Hisar, for the alleged commission of offences punishable under the provisions of Sections 406/420/467/468/471/120-B of the IPC.

On 08.03.2021, the following order had been passed by this court:-

“Learned counsel for the petitioner today has produced in court the testimonies that he had referred to earlier also, of various prosecution witnesses, stating to the effect that the petitioner had not cheated them in any manner though he had borrowed some money from them, some of which he had returned or was intending to return.

Upon query to him as why then the FIR was registered at the first place, he submits that though the complainant in the FIR and two others have made allegations against the petitioner, of having duped them of Rs.47 lakhs to get them a contract in the Indian Railways, are not even coming forward to testify.

Learned State counsel admits that other than the complainant and two other prosecution witnesses, all others have testified, with the next date of hearing being 12.03.2021.

Adjourned to 16.03.2021, with it made clear that since the petitioner has already been in custody for the past 1 year and 3 months, if the complainant and other prosecution witnesses do not come forward to testify on 12.03.2021, i.e. the next date of hearing before the trial court, this court would obviously consider admitting the petitioner to bail on the next date of hearing itself, subject of course to learned State counsel addressing arguments on any other point.”

Today, learned counsel for the petitioner has sent to the Reader

of this court by way of a 'Whatsapp' communication, an order passed by the trial court on 12.03.2021, stating to the effect that the complainant and material witnesses (Raman Kumar, Rajesh and Pankaj), did not appear to testify on that date also, because even the summons issued were not served upon them.

That being so, looking at the custody period of the petitioner, without making any comment on the actual merits of the case, he is ordered to be admitted to interim bail on his furnishing adequate bail and surety bonds to the satisfaction of the trial court, till the next date of hearing before this court.

Adjourned to 19.05.2021.

The trial court is directed to send a report before the next date of hearing as to whether the said witnesses and any other material witnesses have been examined in the meanwhile or not.”

No report of the trial court has been received after the order dated 30.11.2021 was passed, with learned State counsel also seeking further time to file an affidavit as regards the exact stage of the trial.

Counsel for the petitioner having submitted that the next date of hearing before the trial court is 01.02.2022.

In view of the fact that the complainant and material witnesses are obviously not appearing to testify before the trial court and with the petitioner not reported to have misused the interim bail granted, without making any comment on the actual merits of the case, the petition is allowed, with the order passed on 16.03.2021 made absolute, on the same terms and conditions.

December 13, 2021
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No