

CRM-M-19263-2021

Date of Decision : 25.05.2021

Mohit Ajay Malhotra

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. R.S. Bajwa, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.244 dated 20.08.2020, registered under Sections 323, 406, 420, 506, 370, 384 IPC and Section 24, Immigration Act, 1983, at Police Station Nissing, District Karnal.

3. Learned counsel contends that the petitioner introduced the complainant to the main accused, Vikas Kumar Mishra and Anupam Kumar for sending his son abroad and the complainant paid, Rs.2,10,000/- to the petitioner and Rs.2,00,000/- to the co-accused, who sent the complainant's son to Vietnam where Vikash Kumar Mishra also reached and snatched 12500 Euros i.e. Rs.10,00,000/- from the complainant's son, total Rs.14,10,000/-, that the petitioner gave a cheque of Rs.4,00,000/- as security to the complainant but the same bounced on

presentation and in respect of which a complaint under Section 138, Negotiable Instruments Act, has been filed. Learned counsel contends that CRM-M-16018-2021, has been filed by the main accused, Vikas Kumar Mishra, for quashing of FIR on the basis of compromise of the matter with the complainant, factum of compromise was admitted by counsel appearing on behalf of the complainant whereupon while adjourning the matter to 12.07.2021, parties were directed to put in appearance before the learned Illaqa Magistrate/Duty Magistrate for recording of their statements in terms of the compromise. Order dated 09.04.2021, passed in CRM-M-16018-2021, is reproduced as below:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.244 dated 20.08.2020, registered under Sections 323, 406, 420, 506, 370, 384 IPC and 24 Immigration Act 1983 at Police Station Nissing District Karnal along with all consequential proceedings emanating therefrom, on the basis of affidavit/compromise, Annexure P/2 dated 01.04.2021 as well as the decision of Hon’ble the Supreme Court in *Gian Singh v. State of Punjab and another*, 2012 (4) RCR (Crl.) 543.

Notice of motion.

Mr.Vivek Chauhan, Addl. AG, Haryana accepts notice on behalf of respondent No. 1 and states that he does not wish to file reply in view of amicable settlement of the dispute amongst the parties vide affidavit / compromise, Annexure P/2 dated 01.04.2021 as well as the judgment cited by learned counsel for the petitioners.

Mr. Pardeep Panwar, learned counsel puts in appearance and accepts notice on behalf of respondent No.2 and 3 and states that he has no objection, if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed in view of affidavit/compromise, Annexure P/2 dated 01.04.2021

as also the judgment cited by learned counsel for the petitioners.

Accordingly, in view of the position as noted above, the parties are directed to put in appearance before the learned Illaqa Magistrate/ Duty Magistrate concerned for recording of their statements in terms of affidavit/compromise, Annexure P/2 dated 01.04.2021 on 11.05.2021 or any other date thereafter convenient.

Report regarding genuineness of the compromise as also whether any other person(s) has/ have been nominated as accused and whether any person(s) has / have been declared proclaimed offender, whether challan has been filed, whether there is any cross case etc. be filed before this Court by the next date.

List on 12.07.2021.

Reply, if any, be filed in the meantime.”

4. Learned counsel contends that at best the allegations against the petitioner are of having received Rs.2,10,000/- from the complainant, whereas the main accused, Vikas Kumar Mishra, against whom, there was allegation of snatching of 12500 Euros i.e. Rs.10,00,000/-, has compromised the matter with the complainant, besides complaint under Section 138, NIA, has been filed by the complainant against the petitioner qua the cheque of Rs.4,00,000/-, issued by him by way of security. Learned counsel contends that the investigation is complete, challan has been filed, but charges are yet to be framed, and that in the circumstances, trial would take considerable period of time and no useful purpose would be served by keeping the petitioner behind bars especially

on account of circumstances prevailing due to Corona Virus pandemic.

5. Learned DAG, Haryana, confirms as correct the factual position as noted above.

6. In the light of position noted above, investigation being complete, challan having been presented, though charges are yet to be framed, trial would take considerable period of time due to circumstances prevailing on account of Corona Virus Pandemic, I am of the view that no useful purpose would be served by keeping the petitioner behind bars. Accordingly, without commenting on the merits of the case, the petition for regular bail is ***allowed*** and the petitioner is ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned, provided he is not required in any other case. The petitioner shall also abide by the conditions contained in Section 437(3) Cr.P.C.

(B.S. Walia)
Judge

25.05.2021

'rajesh

Whether speaking/ reasoned : *Yes/No*
Whether reportable : *Yes/No*