

CRM-M-20546-2021

Date of Decision : 24.08.2021

SAHAB SINGH AND ANOTHER

...Petitioners

Versus

STATE OF HARYANA

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Atul Lakhanpal, Sr. Advocate with
Mr. Arjun Lakhanpal, Advocate for petitioner No.2.

Mr. Sandeep Singh Mann, Addl. AG, 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 petitioner No.2-Omi widow of Sat Narain in case FIR No.18 dated 07.01.2021, registered under Sections 193, 201, 205, 297, 420, 467, 468, 471, 120-B of IPC, 1860, at Police Station City Hansi, District Hisar. It needs noticing here that petitioner No.1- Sahab Singh has already been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 02.06.2021.

3. Learned counsel contends that petitioner No.2 was a nominee in the policies taken out by her deceased husband, that money on account of claim made by her has not been released to her, investigation in the case is complete, challan has been filed, trial is likely to take considerable period of time, therefore, no useful purpose would

petitioner No.2 relies upon the decision of Hon'ble the Supreme Court in **Sanjay Chandra vs. CBI 2011 (4) RCR (Criminal) 898**. Relevant extract of the decision in Sanjay Chandra's case (supra) is reproduced as under:-

“25) Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds:-The primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer ; the secondary ground is that the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration. The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the

accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required. This Court in Gurcharan Singh and Ors. Vs. State AIR 1978 SC 179 observed that two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case. Though, this aspect is dealt by the High Court in its impugned order, in our view, the same is not convincing.

26) When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the

interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. This Court, in the case of State of Kerala Vs. Raneef (2011) 1 SCC 784, has stated :-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille."

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. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

5. Learned counsel also relies upon the decision of this Court in CRM-M-23518-2018, titled as Chandan Madaan vs. State of Punjab, decided on 21.08.2018, which was a case under Sections 420, 465, 467, 471 and 120-B of IPC, in which the petitioner therein was involved in 13 cases on identical charges but was released on regular bail by taking into account that the petitioner had been granted bail in eight cases where allegations were identical and that co-accused of the petitioner therein was already on regular bail, offence was triable by Magistrate etc.

ASI Ashok Kumar, contends that although petitioner No.2's husband was a cancer patient but he took out a number of life insurance policies and his death although on account of cancer was tried to be passed off as death on account of accident so as to make a claim for benefits under the insurance policies. Learned State counsel, however, confirms that investigation is complete, payment on account of insurance claims was not released to petitioner No.2, challan has been presented, though charges are yet to be framed and that the petitioner is in custody since 10.04.2021.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly, petitioner No.2 is the widow of deceased Sat Narain, who was alleged to have taken a number of insurance policies and despite suffering from cancer, his death was shown as due to accident. However, co-accused, Sahab Singh, who is the cousin of deceased Sat Narain and who is alleged to have made a false statement of Sat Narain having passed away by falling from bullock cart while riding with him, whereas the deceased is stated to have died while going to PGIMS, Rohtak, in a car, for taking treatment, has already been released on bail vide order dated 02.06.2021. Petitioner No.2 has not been released any claim under the life insurance policies by HDFC Ergo or for that matter any other Insurance Company or authorities, as per the statement made by learned counsel for petitioner No.2. No doubt the allegations are serious but question as to whether the death of Sat Narain was accidental or on account of cancer disease, and whether petitioner

No. 2 was involved in the commission of the offence would be subject matter of trial. Petitioner No.2, is a woman, has lost her husband, does not have any previous criminal record and is behind bars since 10.04.2021, trial is likely to take considerable time to conclude, therefore, in the circumstances, no useful purpose would be served by keeping petitioner No. 2 behind bars. Accordingly, the petition under Section 439 Cr.P.C. is *allowed*. Petitioner No.2-Omi is ordered to be released on regular bail during the pendency of the trial on her furnishing bail bond and surety bond to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, provided she is not required in any other case and further subject to her furnishing an undertaking before the learned trial Court that she will not press for or receive any amount from any Insurance Company or any other authority qua the death of her husband on the basis of alleged accident during the pendency of the trial. Petitioner No.2 shall also comply with the conditions contained in Section 437(3) Cr.P.C. However, nothing stated hereinabove shall be read as an expression of opinion on the merits of the case.

7. Petition allowed in the aforementioned directions.

(B.S. Walia)
Judge

24.08.2021
'rajesh-renu'

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