

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

**CRM-26473-2021 in/and
CRM-M-24558-2021
Date of Decision: 26.08.2021**

Ram Chhangur

..... Applicant/Petitioner

Versus

Union Territory, Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Vivek Kathuria, Advocate
for the Applicant/Petitioner.

Mr. Charanjit S. Bakhshi, APP, U.T., Chandigarh
for the Respondent/U.T., Chandigarh.

SUDIP AHLUWALIA J. (ORAL)

CRM-26473-2021

For the reasons mentioned in the application, the Applicant-
Respondent/U.T., is permitted to place on record its Reply.

Application stands disposed off.

CRM-M-24558-2021

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.313, dated 18.12.2019, registered under Sections 420 of the Indian Penal Code, and under Section 3/4/5 of Prize Chits & Money Circulation Schemes (Banning) Act, 1978 at Police Station Sector 34, Chandigarh.

2. The present case was registered against the accused/Petitioner

on the joint Complaint made by Sh. Ramesh Chander, resident of Chandigarh with the allegations that the Accused/Petitioner was running the business of committee from his home. It was submitted that with dishonest intention, the Petitioner has allured the Complainants to invest their money in his business of committee on the pretext of giving handsome profit of their investments. On such allurement, all the Complainants had invested a total sum of Rs.59,60,000/- with the Petitioner in his Committee business on various intervals. When the Complainants demanded their profits, the Petitioner/accused started lingering on the matter on one pretext or the other. Thereafter, the Petitioner/accused had issued the Cheques and Promissory Notes under his own signature and handed over the same to the Complainants. When the Complainants presented the said cheques in concerned Bank, the same were dishonoured. Upon the complaint being made with aforesaid allegations, present case was registered against the Petitioner.

3. Reliance on behalf of the Petitioner has been placed on the decision of the Hon'ble Apex Court passed in **Criminal Appeal No.2178 of 2011** titled as **“Sanjay Chandra vs. C.B.I.”** decided on 23rd November, 2011, in which it was observed *inter alia* :-

“14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive or

preventive. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson."

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 V. Raneef MANU/SC/0001/2011 : (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 that 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 ally the apprehension expressed by CBI."

4. The Petitioner has remained in detention for almost 1 year and 8 months by now, since 4th January, 2020.

5. After completion of investigation, Challan against him was submitted considerably long ago. As many as 110 witnesses have been cited

from the Prosecution Side. Only 11 out of those witnesses, have been examined, so far, and the next date for the same purpose happens to be the 8th of September in the Ld. Trial Court.

6. In the aforesaid circumstance, this Court is of the opinion that further detention of the Petitioner, in the given circumstances, is not called for at this stage, in view of the legal position expounded by the Apex Court in the case of *Sanjay Chandra (supra)* that notwithstanding the magnitude of the economic offences allegedly committed by an accused who is as yet not convicted, refusal of bail in the circumstances would be improper *as a mark of disapproval of a formal conduct to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.*

7. Consequently, the present Petitioner is now ordered to be released on bail on his executing bail bond with two solvent sureties, each in the sum of Rs.5,00,000/- (Rupees Five Lacs Only) to the satisfaction of Ld. Trial Court/Duty Magistrate concerned, subject to the following conditions:

- a. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him to disclose such facts to the Court or to any other authority.
- b. He shall remain present before the Court on the dates fixed for hearing of the case. If he wants to remain absent, then he shall seek prior permission of

the Court and in case of unavoidable circumstances of his absence, he shall immediately give intimation to the appropriate Court and also to the Superintendent concerned requesting that he may be permitted to be present through his Counsel.

c. He will not dispute his identity as an accused in the case.

d. He shall surrender his Passport, if any (if not already surrendered), and in case, he is not a holder of the same, he shall swear an Affidavit to this effect. If he has already surrendered the same before the Ld. Trial Court/Duty Magistrate concerned, such fact shall also be disclosed by an Affidavit.

8. Disposed off.

August 26, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No