

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

212

CRM-M No.25236 of 2021
Date of decision:13.07.2021

Naresh Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.101, dated 11.03.2020 registered for offence under Sections 406, 420 and 506 IPC, 1860, at Police Station Azad Nagar, District Hisar.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the basis of a complaint given by some farmers on the allegation that Anil Kumar and Naresh Kumar (present petitioner), who are working as Commission Agents have lured them into selling crops to them on the assurance of good returns, which they failed to fulfil and a huge amount is outstanding from the two accused and are threatening them.

Learned Senior counsel contends that the petitioner is not the owner of the firm, M/s Sai Beej Bhandar, which has purchased crops

from the farmers. He has referred to an affidavit executed by co-accused, Anil Kumar, as well as the license issued under the Seeds (Control) Order, 1983 to urge that Anil Kumar is the proprietor of the said firm and, he is in custody. It is the submission of the counsel that the mere mention of the name of the petitioner on the visiting card and the calendar of the firm, which the prosecution agency is relying upon, is not sufficient and the Investigating Agency has not been able to come across any partnership deed or document signed by the petitioner to link him with the firm. Counsel contends that the previous petition seeking grant of bail (CRM-M-29847-2020) was withdrawn on 06.04.2021 by moving an application to approach the trial court and it was not argued on merits. Still further, by relying upon Section 437 (6) Cr.P.C., he argues that as the trial has not concluded within the stipulated period of 60 days and the petitioner has remained in custody during the whole of said period, he deserves to be released on bail. He submits that the investigation qua the petitioner is complete, challan has been presented and the petitioner, who is in custody since 01.09.2020, deserves to be enlarged on bail. Learned Senior counsel, upon instructions submits, that in order to show his bona fides, the petitioner is willing to furnish title deeds of the property of the value of Rs.10 lac with the trial court.

Per contra, learned State counsel upon instructions from SI Devender, submits that the petitioner, in connivance with the co-accused has duped the complainants of more than Rs.35 lac and there are allegations against them of having swindled a number of other farmers, of agriculture produce of an amount of almost Rs.1.96 crores. He submits that recovery of Rs.20,000/- has been effected from the

petitioner. As per his instructions, challan has been presented on 22.10.2020, charge has been framed on 25.03.2021, and no witness out of 36 prosecution witnesses has been examined.

Having considered the arguments addressed by counsel for the parties, the Court is of the view that the material collected by the prosecution agency is debatable. The Court is of a prima facie opinion that the petitioner is entitled to be enlarged on bail.

Keeping in view, the nature of allegations, gravity of offence, and period of incarceration and the fact that the trial is not likely to conclude, the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall deposit original title deeds of immovable property of Rs.10 lacs alongwith an undertaking of the owner to the effect that the said property shall neither be disposed of, nor alienated, mortgaged etc. till the conclusion of the trial.

Petition is allowed.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

13.07.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No