

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26307-2021(O&M)

Date of Decision: 13.08.2021

Arvind Ashat

..... Petitioner

versus

State of U.T. Chandigarh

..... Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Sanjay Bhojwani, Advocate for the petitioner.

Mr.Rajeev Anand, APP , UT, Chandigarh.

Mr.Navkiran Singh, Advocate
for the applicants/victims (in CRM-22638-2021).

Mr.Maninderjit Singh, Advocate
for the applicants/proposed respondents No.31 to 41
(in CRM Nos.23463 & 23466 of 2021).

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

This is the second petition preferred by the petitioner under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for granting him regular bail in FIR No. 50 dated 31.03.2017, under Sections 420/120-B IPC and Sections 10 and 24 of the Emigration Act, 1983, registered at Police Station Sector 3 (North), Chandigarh, District Chandigarh.

It may be noticed that FIR came to be registered on the

complaint of one Rupinder Singh Grewal on the allegations that he had given Rs. 4,94,000/- to the petitioner for the purpose of arranging visas for students, who wish to pursue studies abroad. Petitioner was stated to be running a consultant agency for such purposes. Complainant asserted that the amount in question had been paid through recorded banking transactions through the mode of RTGS. Allegations in a nutshell are that the complainant has been duped of such amount. Even a cheque given by the petitioner for refund of the amount was dishonoured upon presentation.

Apparently during the course of investigation around 377 persons raised similar allegations.

Counsel representing the petitioner would submit that the petitioner has already faced incarceration since 26.04.2018. The investigating officer has filed the first charge-sheet on 30.07.2018 and thereafter filed supplementary charge-sheets on 25.03.2019, 07.03.2020 and 11.01.2021. Further submitted that as of date four charge-sheets have been filed. Filing of successive charge-sheets would be in the nature of an exercise of recording additional statements of the witnesses. Further contended that a fifth challan has been presented by the investigating officer but copies thereof have not been supplied to the petitioner till date. Charges in the first challan were framed by the trial Court on 30.07.2018, in the second challan on 25.03.2019, in the third challan charges were framed on 07.03.2020 and the charges pertaining to the fourth challan were framed on 11.01.2021. It is contended that the trial as also investigation is not making any headway and particularly on account of the Covid-19 pandemic. It is argued that petitioner has completed the full term of sentence prescribed for an offence punishable under Section 120-B of the IPC and Section 24 of the

Emigration Act and has completed almost half of the sentence prescribed for the offence punishable under Section 420 IPC.

Per contra learned APP, UT, Chandigarh has opposed the prayer for grant of bail by submitting that the petitioner has committed large scale fraud cheating hundreds of people of crores of rupees on the pretext of sending them abroad and as such he does not deserve the concession of bail.

It may be noticed that applications for impleadment were filed at the hands of persons who claim to have been duped by the petitioner. Counsel for the petitioner opposed the impleadment applications by submitting that such prayer for impleadment is only a ploy to delay hearing of the bail application. Be that as it may, even without any formal order of impleadment this Court has granted audience to Mr.Navkiran Singh, Advocate as also Mr.Maninderjit Singh, Advocate who had filed the applications seeking impleadment.

Afore-noticed counsel have also vehemently opposed the prayer for grant of bail in terms of reiterating the submissions advanced by learned APP, UT, Chandigarh. That apart Mr.Navkiran Singh, Advocate has also suggested that in case an amount of Rs.1 lac is paid by the petitioner to each of the victims then there would be no objection in releasing the petitioner on interim bail.

Counsel for the parties have been heard at length.

Undoubtedly the pervious petition filed by the petitioner i.e. CRM-M-37010-2018 had been dismissed by this Court on 13.08.2020. Copy of the order stands appended as Annexure P-2 along with the instant petition. Perusal of the same reveals that it is the conduct of the petitioner that had weighed with this Court while declining the prayer for bail. It had

been noticed that during the pendency of the first bail petition, assurance had been held out to this Court to pay certain amounts to the complainants/victims but the petitioner had resiled from his statement/undertaking. Having so observed the petition had been dismissed on 13.08.2020.

More than a year has since elapsed.

Learned APP, UT, Chandigarh has informed the Court that a total of five challans which cover the offences complained of by fourteen complainants have been filed. Sixth supplementary challan has also been prepared by the investigating agency after conducting inquiry into three more complaints and the same would be presented before the trial Court in the near future. It is conceded that there are a total of 377 complaints.

Keeping in view the tardy pace of investigation wherein against a total of 377 complaints only 17 have been looked into till date and challans having been presented, it appears that the investigation process may not be concluded for another couple of years. Petitioner has already faced incarceration since 26.04.2018. The factual premise that investigation is in progress would not be a ground to keep the petitioner indefinitely in custody and particularly keeping in view the slow pace of investigation. The amount of money which is alleged to have been taken by the petitioner on account of having duped the investors/complainants would be a subject matter of trial on the basis of evidence adduced. Prayer for bail made by the petitioner after having suffered incarceration for a period in excess of three years cannot be declined on the demand of the complainants that certain amount be first refunded to them.

The investigation/trial is bound to take time to conclude.

It is not the case made out on behalf of the prosecution that in the event of the petitioner being granted benefit of bail he would be in a position to hamper the course of investigation as also a free and fair trial.

In view of the discussion hereinabove and without opining on the merits of the case, petitioner is held entitled to benefit of bail.

Petitioner be enlarged on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

Disposed of

Pending applications shall also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

13.08. 2021
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No