

Amit

.... Petitioner

Versus

State of Haryana

.... Respondent

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

Present : Mr. Narender Kaajla, Advocate for the petitioner.  
Mr. Naveen Kumar Sheoran, DAG, Haryana.

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**B.S. Walia, J. (VC)**

1. Case is being taken up for hearing through VideoConferencing due to Covid-19pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.18 dated 07.01.2021 registered under Sections 193, 201, 205, 297, 420, 467, 468, 471 and 120-B IPC at Police Station Hansi City, District Hansi.
3. Learned Counsel contends that co-accused Sahab Singh has been granted concession of regular bail by a Co-ordinate Bench of this Court vide order dated 02.06.2021 in CRM-M No.20546 of 2021 on the ground that that Sahab Singh had been in custody for more than six months and was neither a beneficiary nor had claimed any benefit on account of the death of his brother SatNarain. Likewise, Omi i.e.wife of the deceased was released on bail vide order dated 24.08.2021 by this Court by taking into account that she had not been released any claim under the life insurance policies by any Insurance Company or authority, that although the allegations against her

were serious but the question as to whether the death of Sat Narain was accidental or on account of cancer, whether the wife of the deceased was involved in the commission of the offence would be subject matter of trial, that said Omi had lost her husband, did not have any previous criminal record and had been behind bars since 10.04.2021, trial was likely to take considerable time to conclude, therefore, in the circumstances, no useful purpose would be served by keeping her behind bars.

Learned Counsel relies on the decision of Hon'ble the Supreme Court in **Sanjay Chandra vs. CBI 2011 (4) RCR (Criminal) 898**. Relevant extract of the same 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 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 pretrial 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."*

4. Learned counsel apart from relying on bail granted to two of the co accused also relies on the decision of Hon'ble the Supreme Court in ***Ajit Singh v. State of UP and another, 2017 All SCR (Crl.) 1463*** to contend that the petitioner therein who was accused of offences under Sections 420, 467, 468 and 471 IPC and had been in custody for close to four months, was released on bail by taking into account that although the chargesheet had been submitted, trial was yet to commence.

5. Learned counsel for the petitioner prays for grant of regular bail to the petitioner on account of being similarly situated as co-accused Sahab Singh.

6. Per contra learned State counsel contends that the petitioner who is a co-villager of the deceased made a false statement u/s 175 Cr.P.C. that death of Sat Narain was accidental and also carried the dead body of Sat Narain in his car to the Civil Hospital Hansi for the post-mortem.

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

8. Admittedly, the petitioner is not related to the deceased or his wife, but is merely a co-villager. The petitioner like co-accused Sahab Singh is neither a beneficiary nor has claimed any benefit on account of the death of said Sat Narain. No doubt, the allegations against the petitioner are serious but the question as to whether the death of Sat Narain was accidental or was on account of cancer and whether the petitioner was involved in the commission of the offence would be subject matter of trial. The petitioner does not have any previous criminal record and is behind bars since 07.04.2021. Challan has been presented, though charges are yet to be framed, therefore, trial is likely to take considerable period of time. Accordingly, in the circumstances, no useful purpose would be served by keeping the petitioner behind bars.

9. In the light of the position noted above, the petition for regular bail is **allowed** and 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. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

10. Petition allowed in the aforementioned terms.

**(B.S. Walia)**  
**Judge**

07.09.2021

'Rajneesh/Amit'

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