

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

216+109

CRM-M No.31201 of 2021 (O & M)
Date of decision:28.09.2021

Anil

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.K. Chugh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

CRM-32183-2021

Prayer in the application is for amendment of the petition by adding offence under Sections 420 and 477 IPC in the headnote as well as in the prayer of the main petition.

Notice of the application to the non-applicant.

On asking of the Court, Mr. Ramesh Kumar Ambavta, AAG, Haryana, accepts notice on behalf of the respondent-State. He does not have any objection, in case, the prayer is acceded to.

Application is allowed.

Petitioner is permitted to incorporate the offences at the appropriate places in the petition.

Copy of the amended petition has been filed in the Court, which is taken on record.

Main Case

This is the first 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 under Sections 406, 420, 477 and 506 of IPC, 1860, at Police Station Azad Nagar, Hisar.

As per the case of the prosecution, FIR has been registered on the basis of complaint submitted by eight farmers on the allegation that Anil (present petitioner) and Naresh Kumar, who were working as Commission Agents in Village Chidod, Tehsil and District Hisar, have lured them into selling their crops to them on the assurance of good returns but they have cheated the complainants and a huge amount is outstanding from them.

Counsel for the petitioner submits that the petitioner is the proprietor of the firm, M/s Sai Beej Bhandar and besides bald allegations levelled in the FIR, neither the complainants nor the Investigating Agency have been able to find any incriminating material against the petitioner. By referring to the final report submitted by the Investigating Agency, he submits that the accusation against the petitioner are the same as levelled against co-accused, Naresh Kumar, who has been granted the concession of regular bail by this Court vide order dated 13.07.2021, Annexure P-2, passed in CRM-M-25236-2021. He submits that in order to show his *bona fides*, the petitioner is prepared to fulfill the same condition as has been imposed on the co-accused in the said order.

Opposing the petition, learned State counsel upon instructions from SI Ramesh Kumar, submits that the allegation against the petitioner and co-accused are of duping 115 small and marginal farmers of more than Rs.1.96 crores and the accused have swindled the complainants of almost Rs.35 lacs. He submits that even the account books, which were in possession of the accused have been destroyed by them. As per his instructions, challan against co-accused, Naresh Kumar, has been presented on 22.10.2020, supplementary challan qua the petitioner has been presented

on 27.01.2021, charge has been framed on 25.03.2021, but due to restrictive functioning of the Courts, none out of 38 prosecution witnesses could be examined. Upon further instructions, State counsel submits that recovery of Rs.22,000/- and two computerized weighing machines has been effected from the petitioner.

Having considered the facts and circumstances of the case, the Court is of the opinion that the material collected by the prosecution would remain debatable. The offence is triable by a Magistrate and the petitioner, who is in incarceration for the last more than 08 months, deserves to be enlarged on bail during the pendency of the trial as the trial is likely to take time to conclude.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petitioner shall simultaneously 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.

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

28.09.2021
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(SUVIR SEHGAL)
JUDGE

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