

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-27928 of 2020 (O&M)

Date of decision:15.03.2021

Kharak Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

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

This is the second petition for grant of regular bail to the petitioner in case FIR No.674 dated 12.12.2017 registered under Sections 406, 420, 467, 468, 471, 120 and 506 of Indian Penal Code, 1860 and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishments Act, 2013 at Police Station Faridabad Kotwali, District Faridabad. The first petition (CRM-M-44011 of 2019) was dismissed on 28.07.2020.

Counsel for the petitioner has urged that after the dismissal of the first petition, the petitioner has undergone incarceration for another

period of 07 months, while the three other co-accused, namely, Tarun Chauhan, Vishal Chaudhary and Bishan Chauhan, have been ordered to be released on bail by this Court, vide order dated 17.09.2020 and 08.10.2020, Annexures P-12 and P-13, respectively and the trial has resumed, though merely 05 out of 107 prosecution witnesses have been examined. Counsel submits that the above named three co-accused were released on their furnishing bank guarantee/original papers of property worth Rs.68.00 lakhs and Rs.1.00 crore and the petitioner is willing to abide by the same terms. Still further, he submits that the petitioner is involved in 05 other criminal cases, out of which 03 cases have been registered under Section 174-A, IPC in which the petitioner has been convicted, vide orders Annexures A-1 to A-3 and sentenced to the period already undergone by him.

Per contra, State counsel upon instructions from SI Ishwar Singh has opposed the petition and submitted that huge amount running into crores of rupees has been collected by the company of which, the petitioner is one of the Directors, out of which a sum of Rs.52,67,640/- was received by the petitioner, though nothing has been recovered from him. Still further, by referring to the order dated 28.07.2020, he submits that there is possibility that the petitioner may flee the country to avoid the trial.

I have considered the rival submissions of the parties.

The Hon'ble Supreme Court in **Criminal Appeal No.98 of 2021 (arising out of Special Leave Petition (Crl.) No.11616 of 2019)**

titled as Union of India Vs. K.A.Najeeb, decided on 01.02.2021, has observed as under:-

“16. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee Representing Undertrial Prisoners v. Union of India, (1994) 6 SCC 731, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail.”

Considering the fact that the petitioner has undergone the custody of almost 02 years whereas the other co-accused have been released on bail by the Courts, the nature and gravity of the offence and that the trial is likely to take long time to conclude, this Court deems it appropriate to

release the petitioner on bail on his furnishing requisite bail bonds to the satisfaction of the trial Court/CJM/Duty Magistrate subject to the following conditions:-

- i) The petitioner shall deposit within a period of one month from the date of release on bail either bank guarantee or original papers of the property worth Rs.2.00 crores before the concerned trial Court/CJM/Duty Magistrate with an undertaking that he shall not dispose of/sell the property during the pendency of the trial and the bank guarantee/such property shall be subject to the orders passed by the trial Court at the time of decision of the case for award of compensation to the victims/investors, as the case may be.
- ii) The petitioner shall surrender his passport with the trial Court. In case the petitioner does not possess a passport, he shall file an undertaking with the trial Court that he will not apply for the same during the pendency of the trial.
- iii) The petitioner shall file an undertaking to the effect that he will co-operate with the trial Court and will not cause any delay in the trial.

In case of violation of any of the above conditions, it shall be open for the prosecution to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

Petition stands allowed.

(SUVIR SEHGAL)
JUDGE

March 15, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>