IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103

(i) **CRM-M-39850-2020**
Date of Decision : 18.01.2021

Krishan Kumar .....Petitioner

Versus

State of Punjab .....Respondent

(ii) **CRM-M-39861-2020**
Date of Decision : 18.01.2021

Sapna Singh .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Bhrigu Dutt Sharma, Advocate
for the petitioner in CRM-M-39850-2020.

Mr. Karambir Singh Nalwa, Advocate
for the petitioner in CRM-M-39861-2020.

Mr. P.S. Walia, Asstt. AG, Punjab
for the respondent-State.

Mr. A.D.S. Sukhija, Advocate
for the complainant.

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ARUN KUMAR TYAGI, J. (Oral)

(The case has been taken up for hearing through video conferencing).

The petitioner-Krishan Kumar has filed CRM-M-39850-2020 and petitioner-Sapna Singh has filed CRM-M-39861-2020 under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of regular bail in case FIR No.109 dated 15.10.2019 registered under Sections 406, 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station

Division No.3, Jalandhar.

The complainant-Joginder Pal Kapoor made written complaint dated 09.09.2019 to the Commissioner of Police, Jalandhar. In his written complaint Joginder Pal Kapoor alleged that in August, 2015 accused Chandan Chopra who is his neighbour told him that accused Puneet @ Baljit who is his friend and has good relations with Senior Police Officers of Punjab and Delhi could get his son appointed as Deputy Superintendent of Police in Punjab Police. In September, 2015 accused Chandan Chopra induced him to pay amount of Rs.50 lakhs in cash or through bank to him, Puneet @ Baljit, Uppal Property Dealer, Shera, Sapna, Tarun Chhabra, Jatin, Gautam, Vipan, Ajit, Jagdish, Jas. Amount of Rs.18 lakhs was paid to accused Chandan Chopra in September, 2015 who handed over receipt No.PSI68580 about deposit of Rs.18 lakhs to him. Thereafter, amount of Rs.32 lakhs was paid to accused Chandan Chopra in October, 2015. Total amount of Rs.3.5 crores was given to accused Puneet @ Baljit and Chandan Chopra and their accomplices who had sent badge etc. of Deputy Superintendent of Police to his son. He had the mobile phone recordings of conversations with accused Puneet @ Baljit. Gurmeet Singh PPS, Additional Deputy Commissioner of Police (Investigation), Jalandhar conducted enquiry and on the basis of his enquiry report and legal opinion of the District Attorney the above-said FIR was registered. Consequent to registration of FIR, the police investigated the case and arrested co-accused Chandan Chopra on 21.12.2019 and on completion of investigation filed charge-sheet against him on 16.03.2020. Subsequently the police arrested petitioner Krishan Kumar on 07.10.2020 and petitioner Sapna and co-accused Puneet @ Baljit on 27.09.2020 and filed charge-sheets against them.

The petitioners being in custody have filed present petitions for grant of regular bail.

The petitions have been opposed by the respondent-State in terms of status reports filed by way of affidavit of Sh. Bimal Kant, PPS, Assistant Commissioner of Police, Head Quarter, Jalandhar.

I have heard learned Counsel for the petitioners, learned

State Counsel and learned Counsel for the complainant and gone through the relevant record.

Mr. Bhrigu Dutt Sharma, learned Counsel for petitioner-Krishan Kumar has argued that the petitioner has been falsely implicated in the case. The petitioner was not named in the FIR and there was no specific attribution of any criminal overt act showing his involvement in the fraud. The only allegation against the petitioner is that amount of Rs.2,65,000/- was credited to the account of the petitioner by his son co-accused Puneet Ralhan. Due to their relationship the transfer of the amount to his account was not illegal in any manner to create any suspicion in the mind of the petitioner regarding involvement of his son in any criminal activity. The petitioner did not receive any other amount. The petitioner does not have any joint property with his son and did not acquire any property since 2015 with his son. No recovery of any incriminating material was made from the petitioner.

Mr. Karambir Singh Nalwa, learned Counsel for petitioner-Sapna Singh has argued that the petitioner who was a divorcee having a child from her first marriage met the petitioner at Mumbai and solemnized marriage with him and a child, now aged about 1 year, was born out of the wedlock. The petitioner is a house wife and did not have any knowledge regarding business or other activities of her husband. Even though the petitioner was named in the FIR but there was no specific allegation of any criminal overt act to her. Even as per the prosecution allegations the petitioner did not meet complainant and make any fraudulent representation to him. The only allegation against the petitioner is that amount of Rs.6,87,000/- was transferred to her account through 17 transactions by the complainant but the said amount was transferred at the instance of her husband co-accused Puneet Ralhan who was managing her account and had her ATM card.

Both the Counsel for the petitioners have further submitted that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and no useful purpose will be served by keeping the petitioners in custody. Co-accused Chandan

Chopra has been granted regular bail by this Court. Therefore, the petitioners may be ordered to be released on regular bail.

On the other land, Mr. P.S. Walia, Asstt. AG, Punjab has argued that both the petitioners received the amounts mentioned from Puneet Ralhan and the complainant respectively. Co-accused Puneet Ralhan defrauded the complainant for an amount of Rs.3.5 crores on a fraudulent representation of getting his son appointed as Deputy Superintendent of Police. In view of nature of accusation and gravity of offences, the petitioners do not deserve grant of regular bail. Therefore, the petition may be dismissed.

Mr. A.D.S. Sukhija, learned Counsel for the complainant has submitted that the petitioner-Krishan Kumar received amount of Rs.2,65,000/- from his son and amount of Rs.6,87,000/- was deposited in the account of petitioner-Sapna Singh by the complainant which shows their involvement in the fraud committed. Petitioner-Krishan Kumar had entered into a compromise on behalf of his son in a complaint filed by Jagsir Singh @ Shera who was cheated for an amount of Rs.1,39,000/- on the fraudulent representation of getting his wife appointed as Peon in Government School. The petitioners do not deserve grant of regular bail. Therefore, the petitions may be dismissed.

After hearing learned Counsel for the parties and perusal of the material on record and in view of the facts and circumstances of the case, nature of accusation and evidence against the petitioners and also the fact that no specific criminal overt act of making any fraudulent representation to the complainant is attributed to the petitioners, grant of bail to co-accused Chandan Chopra and the fact that trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioners.

Therefore, both the petitions are allowed and the petitioners-Krishan Kumar and Sapna Singh are ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

In view of the nature of allegations, it will be appropriate that the case is tried by the Chief Judicial Magistrate or Additional Chief Judicial Magistrate. Accordingly, learned Chief Judicial Magistrate, Jalandhar is directed to ensure that all charge-sheets filed in the case are tried by him or entrusted to Additional Chief Judicial Magistrate and are not assigned to any of other Judicial Magistrates First Class.

In the present case charge-sheet was filed initially against Chandan Chopra and subsequently charge-sheets have been filed against the petitioners and co-accused Puneet Ralhan. Filing of supplementary charge-sheets by the police leads to delay in trial as clubbing of such supplementary charge-sheets with the main charge-sheet filed earlier leads to/results in de novo trial. Therefore, it will be essential in the interest of justice that any supplementary charge-sheet filed against any other co-accused after commencement of trial against the petitioners and co-accused arrested so far is tried separately.

In view of the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312*** and ***Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite the disposal of the case, after easing out the restrictions imposed to prevent the spread of Covid-19, by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses.

In case of non-appearance of official witnesses, the trial Court shall take appropriate action against the concerned police officials absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against them.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of the question of guilt or innocence of the petitioners.

A copy of this order be sent to the trial Court concerned for requisite compliance.

18.01.2021 **(ARUN KUMAR TYAGI)**
Kothiyal **JUDGE**

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No