

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CRM-M-348-2021 (O&M)
Date of Decision: 06.04.2022**

RAVINDER

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Amit Chaudhary, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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VINOD S. BHARDWAJ, (Oral)

The instant petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.325, dated 16.05.2020 under Sections 201, 420, 467, 468 and 471 of IPC registered at Police Station Hisar Sadar, District Hisar.

Learned counsel appearing on behalf of the petitioner submits that the FIR in question was registered on 16.05.2020 and the petitioner was taken in custody on 21.05.2020. He submits that despite having undergone an actual custody in a magisterial trial for a period of 01 year and 11 months approximately, the trial has not made much progress, because not even a single prosecution witness has been examined so far.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana, who is present in the Court, has opposed the instant petition by alleging that the allegations against the petitioner are severe in nature, and that the petitioner had induced the complainant to part with money on the pretext of getting him a government job in Sessions Court of Hisar. He further submits that there are two more cases registered against the petitioner and that he already stands convicted in both the cases. He, however, has not been able to controvert

the fact that the trial in the instant case is a magisterial trial and that the petitioner is in custody since 21.05.2020.

I have heard the counsel for respective parties.

Upon hearing the counsel for the respective parties, I am of the opinion that mere pendency of other cases and the allegations that the petitioner is a habitual offender cannot be the basis for perpetual incarceration of the petitioner in jail. The power of Court to grant or decline bail is not to be exercised as a source of sentencing an accused. Each application for bail has to be examined on its own merits and existence of other cases is just amongst various factors to be kept in mind by the Court. Such objection stands declined as a valid objection by the Hon'ble Supreme Court in its judgment passed in the matter of **Maulana Mohd. Amir Rashadi Vs. State of U.P.** reported as **2012(1) SCC (Crl.) 681**. It has further been so affirmed by the Hon'ble Supreme Court in the matter of **Prabhakar Tiwari Vs. State of U.P. and another** passed in **Crl. Appeal No.152 of 2020 decided on 24.01.2020**.

It is further apparent that the case in question is a magisterial trial and has already been much delayed. Section 437(6) Cr.P.C. provides such a trial to conclude within a period of 60 days of the first date fixed for taking evidence, whereafter a person is entitled to bail unless it is otherwise directed by the Court for reasons to be recorded in writing. The same is a provision aimed to restrict the period of custody and to ensure that the people do not continue to languish in jail.

In view of the above and taking into consideration the period of custody already undergone by the petitioner as also the stage of the trial

coupled with the fact that no prosecution witness has been examined so far,
I deem it appropriate to enlarge the petitioner on regular bail.

Accordingly, the instant petition is allowed and the petitioner is
admitted to regular bail subject to his furnishing bail/surety bonds to the
satisfaction of the Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat
and shall not influence any prosecution witnesses in any manner directly or
indirectly.

The observation made hereinabove shall not be construed as an
expression on the merits of the case and the Trial Court shall decide the case
on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

06.04.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No