

**CRM-M-5627 of 2021 and
CRM-M-25161-2021**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

206-2 cases

**CRM-M No.5627 of 2021
Date of decision:09.09.2022**

Kuldeep

... Petitioner

Vs.

State of Haryana

... Respondent

CRM-M-25161-2021

Ajay Pal @ Dilbag

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahul Sharma-I, Advocate and
Mr. Arpandeeep Narula, Advocate for the petitioner(s)
in both cases.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Mohak Arora, Advocate for the complainant.

SUVIR SEHGAL J.(ORAL)

This order shall dispose of CRM-M-5627 of 2021 titled as
Kuldeep versus State of Haryana and CRM-M-25161-2021 titled as
Ajay Pal @ Dilbag versus State of Haryana as both the petitioners are
accused in FIR No.578 dated 04.10.2018 registered under Sections 420,
406, 120-B and 34 of IPC, 1860, and Sections 03, 04, 05 and 06 of Prize

Chits and Money Circulation Scheme (Banning) Act, 1978, at Police Station City Fatehabad, District Fatehabad, Annexure P-1, and have approached this Court by way of separate petitions seeking grant of regular bail under Section 439 of Cr.P.C. For the sake of convenience, facts are being taken from CRM-M-5627-2021.

Both the petitioners are approaching this Court for the second time. The first petitions preferred by them, were dismissed more than a year back.

Case of the prosecution is that FIR has been registered on the complaint of Vikram and 99 other persons on the allegation that Pardeep Sihag, Ajay Beniwal, Rajesh and Kuldeep (petitioner in CRM-M-5627-2021) have deceived them on the pretext of doubling their money within a short span of time. Huge amount was invested in RTPS Life Care Private Limited, a chit fund company, through RTGS in account No.50457866262 with Allahabad Bank, Hisar Branch on the allurements of the accused.

Counsel for the petitioner(s) has contended that Kuldeep is in custody since 22.06.2019 and accused-Ajay Pal is behind bars since 24.04.2019 and have spent more than 03 years in custody. It has been submitted that although charge has been framed and some prosecution witnesses were examined, but on an application filed by the prosecution under Section 319 of Cr.P.C., Master Vijay Singh and Satish Beniwal have been summoned as an additional accused by the trial court vide order dated 26.05.2022. A submission has been made that with the summoning of additional accused, the trial is likely to start afresh and the

prosecution has to examine 168 witnesses. Counsel submits that although the accused were involved in two other criminal cases with similar allegations, but they are not named in those FIRs and have been released on bail. Counsel asserts that keeping in view of the period of custody of the petitioners, they deserve to be enlarged on bail. Counsel for the petitioner has taken the Court through the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act as well as that of the IPC to submit that in case, petitioners are convicted, the maximum sentence that can be imposed by the trial court is 07 years.

Per contra, learned State counsel upon instructions from ASI Birbal, and with the assistance of counsel for complainant, has opposed the petitions and has submitted that the petitioners in connivance with each other, have swindled innocent public of more than Rs.59 crores. As per her instructions, petitioners are the master mind behind the scam. She, however, could not dispute the stage of the trial. An apprehension has been expressed that the accused are a flight risk and may abscond.

Heard counsel for the parties.

It has been held by the Supreme Court in Union of India versus K.A. Najeeb 2021 (3) SCC 713 that long custody of the accused coupled with remote possibility of timely conclusion of trial, makes it obligatory on the Courts to release the accused on bail. In Paresh Nathalal Chauhan versus State of Gujarat and others, 2022 (90) GST 685, wherein accused allegedly evaded GST to the extent of Rs.64 crores, the accused was ordered to be released on bail after he had undergone almost 50 % of the total sentence.

Petitioners have undergone a sentence of 38 months and 40 months, respectively. Considering the fact that the offences entail a maximum sentence of seven years and the petitioners have spent almost half the sentence in incarceration, this Court is *prima facie* of the view that the petitioners deserve to be released on bail. The apprehension of the State can be taken care of by imposing stringent conditions.

Without advertent to the merits or de-merits of the arguments addressed by counsel for the parties, petitions are allowed. Both the petitioners are ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

However, while being released on bail, this Court deems it appropriate to impose the following conditions while granting liberty to the Trial Court to impose any other condition:-

- (i) the petitioners will surrender their passport before the trial court and in case, they do not possess a passport, they will file an affidavit to this effect with an undertaking that during the pendency of the trial, they will not apply for a passport;
- (ii) the petitioners will appear before the police station concerned on the first Monday of every month at 11.00 AM; and
- (iii) the petitioners will provide their mobile numbers to the SHO concerned, which they will keep activated throughout. The SHO would make

random calls on their mobiles and keep a check on their movement.

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

09.09.2022
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(SUVIR SEHGAL)
JUDGE

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