

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(202)

CRM-M-5247-2022

Date of decision: - 11.02.2022

Sher Ali

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. S.K. Choudhary, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.117 dated 03.09.2015, under Sections 420, 417 and 120-B IPC, at Police Station Division No.2, District Pathankot.

Learned counsel for the petitioner has submitted that the petitioner is a resident of House No.217, Ward No.2, Near Maggar Khudd, Jagatpur, Police Station Lakhanpur Kathua, Jammu and Kashmir. It is further submitted that the alleged summons (Annexure P-2) have been issued to the petitioner by taking his address to be village Bhaloowal Kullian, District Hoshiarpur. It is further submitted that in the FIR (Pg.23

of the paperbook) as well as challan, which has been presented, address of the petitioner has been given as village of Jandi Jonta, Police Station Dina Nagar, District Gurdaspur. It is further submitted that the petitioner is not a resident of Gurdaspur or Hoshiarpur and was thus not aware about the said proceedings and thus, he had wrongly been declared as proclaimed offender on 07.07.2018. It is also submitted that since the petitioner was not aware of the said proceedings, thus, he was arrested on 07.12.2021 and since then, he is in custody. It is further submitted that the supplementary challan in the present case has already been presented and there are 11 witnesses and none of them have been examined qua the petitioner's trial and even the charges have not been framed and thus, the trial is likely to long time, moreso, in view of the present pandemic. It is further submitted that the allegations in the FIR are with respect to a money dispute, in which, the complainant had alleged that an amount of Rs.4.62 lakhs was not paid to him.

Learned State counsel, on the other hand, opposed the present petition for regular bail and has submitted that the petitioner was declared as proclaimed offender on 07.07.2018 and was only arrested on 07.12.2021 and he has managed to evade the process for a period of more than three years and thus, he does not deserve the concession of regular bail.

This Court has heard the learned counsel for the parties and has perused the paper book.

A perusal of the summons (Annexure P-2) would show that the petitioner was sought to be served at village Belowal Kullian, District

Hoshiarpur. Perusal of the FIR (Pg.23) and relevant portion of the challan would show that the petitioner was stated to be a resident of District Gurdaspur therein and it is thus apparent that the summons were not served in District Gurdaspur of which, as per the prosecution, the petitioner was a resident. Petitioner has stated that in fact he is a resident of House No.217, Ward No.2, Near Maggar Khudd, Jagatpur, Police Station Lakhanpur Kathua, District Jammu and Kashmir and is not a resident of District Hoshiarpur, where, the summons had been issued. It has been submitted that the petitioner has never been served and he is not aware about the said summons and proceedings. The dispute in the FIR is a money dispute of non-payment of Rs.4.62 lakhs to the complainant. The petitioner has been in custody since 07.12.2021 and the supplementary challan against the present petitioner has already been presented and there are 11 witnesses, none of them have been examined qua the trial of the petitioner and thus, the trial is likely to take long time, moreso, in view of the present pandemic and thus, the present petition for grant of regular bail deserves to be allowed.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court / Duty Magistrate / CJM, and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences or threatens any witness, then it would be open to the State to move an application for cancellation of bail of the petitioner.

Nothing stated above shall be construed as a final expression

of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

February 11, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No