

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-8739-2022
Decided on : 07.03.2022

Naveen

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. S. K. Hooda, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 602 dated 20.10.2021 under Sections 419, 420, 467, 468, 471, 120-B and 201 of the Indian Penal Code, 1860 registered at Police Station City Kaithal.

Learned counsel for the petitioner has submitted that one FIR No. 408 dated 27.08.2021 under Sections 419, 420, 467, 468, 471, 120-B, 34 and 201 IPC was registered on 27.08.2021 when secret information was received by the complainant therein (security agent in Civil Lines, Kaithal), while he was collecting information with respect to the leakage of the question paper, in the exam being conducted by the Haryana Staff Selection Commission, which had led to its cancellation. The secret information was to the effect that one Yogesh had appeared in place of Sonu and Amit in the said exam. The present petition has been implicated

only on the disclosure statement of the said co-accused Yogesh wherein it was stated that the present petitioner had acted as the mediator for the said purpose. It is further contended that on the basis of the said disclosure statement, which was recorded on 20.10.2021, the petitioner was arrested on 23.10.2021 and he had applied for regular bail before the Additional Sessions Judge, Kaithal which was granted on 14.01.2022. It is further submitted that however, second FIR i.e. the present FIR No. 602 dated 20.10.2021 under Sections 419, 420, 467, 468, 471, 120-B and 201 of the Indian Penal Code, 1860 was thereafter illegally registered in which the present petitioner has been made an accused on the basis of the said disclosure statement of Yogesh. It is argued that the registration of second FIR in such a situation, is not permissible in law. It is further argued that Amit, in whose place the said Yogesh had given the exam, has already been granted bail by the Additional Sessions Judge, Kaithal vide order dated 27.01.2022 and the bail of the present petitioner has been illegally rejected vide order dated 09.02.2022. It is further submitted that the petitioner is in custody since 23.10.2021 and challan in the present case has already been presented and the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation. The present case is triable by the Magistrate.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the disclosure statement of Yogesh, it is the present petitioner who had facilitated the meeting of Yogesh with Sonu and Amit and had even allured Yogesh with money for sitting in the exam in place of Sonu and Amit. The other facts

as mentioned by learned counsel for the petitioner have not been disputed by learned State counsel.

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

It is not in dispute that FIR No. 408 dated 27.08.2021 under Sections 419, 420, 467, 468, 471, 120-B, 34 and 201 IPC was registered on the allegations that the question paper pertaining to the exams being held for recruitment to the post of Police Constable in Haryana Police had been leaked and during investigation, it was found that one Yogesh had appeared in place of Sonu and Amit in the said exam and accordingly, disclosure statement of the said Yogesh had been taken, who, in his disclosure statement, had stated that it was the present petitioner who had acted as a mediator/facilitator for Yogesh to appear in the said paper in place of Sonu and Amit. The said disclosure statement is stated to have been made on 20.10.2021. On the basis of the said disclosure statement, the present petitioner was arrested and he applied for regular bail in FIR No. 408 dated 27.08.2021 and was granted the concession of regular bail by the Additional Sessions Judge, Kaithal vide order dated 14.01.2022 (Annexure P-4). While granting bail, it was noticed that there was a delay of 20 days in registration of the FIR and no purpose would be served by keeping the petitioner in further incarceration. However, second FIR i.e. the present FIR was registered on the basis of the disclosure statement of Yogesh in which again the present petitioner was alleged to be the facilitator for making Yogesh appear in place of Sonu and Amit. It is the matter of debate as to whether second FIR in such a situation could have

been registered. The co-accused of the petitioner Amit, in whose place Yogesh had appeared, has already been granted regular bail by the Additional Sessions Judge, Kaithal vide order dated 27.01.2022 (Annexure P-2). The petitioner who was neither caught at the time of giving of the exam nor was the person who had appeared in place of any candidate and whose implication is solely on the basis of disclosure statement, has been in custody since 23.10.2021, the case is triable by the Magistrate and challan in the present case has already been presented and the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Keeping in view the abovesaid facts and circumstances, 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 and subject to his not being required in any other case.

However, 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 application.

(VIKAS BAHL)
JUDGE

March 7th, 2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No