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

CRM-M No.29902 of 2021 (O&M)

Date of decision: 22.02.2022

Agnivesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ankur Lal, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Gulshan Nandwani, Advocate
for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.138 dated 23.04.2018, for offence punishable under Sections 406, 420, 34 of the Indian Penal Code, 1860 (in short 'IPC'), Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 registered at Police Station Model Town, District Rewari.

The earlier one was dismissed on 08.09.2020, by passing a detailed order.

The primary ground of rejecting the bail was that the regular bail of the co-accused Inder Singh has already been dismissed as there are serious allegations against the petitioner.

Counsel for the petitioner has argued that now even, Inder

Singh, who is the Managing Director has already been granted the concession of regular bail vide order dated 25.03.2021. The operative part of the said order, reads as under:-

“Counsel for the petitioner has submitted that as per the allegations in the FIR, the petitioner along with the co-accused has cheated investors of Rs.8 crores and in this regard, 21 complainants have given a common complaint against the petitioner and other accused persons. Counsel for the petitioner has further submitted that the primary allegations against the petitioner are that the petitioner was the Managing Director of Navjyoti BRF Private Limited and the accused persons by floating a scheme with a promise to double the amount in 05 years have prepared fake agreements in favour of the victim and have induced them to part way their money.

Counsel for the petitioner has also submitted that the petitioner is in custody for the last 02 years and 10 months and till date, the trial is not proceeding as no evidence has been recorded. It is further argued that due to COVID-19 situation and also in view of the fact that subsequent to the arrest of the petitioner, some other accused were arrested, fresh challan was presented and fresh charges were framed and therefore, the trial has been delayed.

Counsel for the petitioner has further argued that now the challan stands presented, charges have been framed and he has relied upon the order passed by the trial Court to submit that the case, before the trial Court, is fixed for miscellaneous purposes and till date, no PW has been examined.

*Counsel for the petitioner has relied upon the judgment **“Manoranjana Sinh @ Gupta vs Central Bureau of Investigation”, 2017(1) RCR (Criminal) 1025** passed by the Hon'ble Supreme Court to submit that the*

detention of an undertrial person for an indefinite period would amount to violation of Article 21 of the Constitution of India.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is also submitted that the petitioner is in custody for the last 02 years and 10 months, though, he is involved in some other cases of similar nature but he is on bail.

*Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 02 years and 10 months and also in view of the judgment of Hon'ble Supreme Court in **Manoranjana Singh @ Gupta's case (supra)**; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.”*

Counsel for the petitioner has further submitted that the petitioner is in custody since 24.02.2020 i.e. for a period of about 02 years.

Counsel for the State, assisted by counsel for the complainant and on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. However, it is submitted that the petitioner was the Director of the Company, which has duped many of the victims.

Counsel for the complainant has further submitted that allegations against the petitioner are of duping the investment of 100 crores of rupees.

In reply, counsel for the petitioner has submitted that after the statement of one of the witness was recorded, an application under Section 319 Cr.P.C. was filed and the same is pending since long and on that account, the trial Court is not recording the evidence of the prosecution witnesses, in this case.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 02 years; the co-accused of the petitioner is already released on bail; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No