

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24468 of 2022 (O&M)

DECIDED ON:1st September, 2022

Sarjiwan Kumar Mittal @ Jiwan Kumar

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Varlin Garg, Advocate for petitioner.

Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

This petition is filed seeking regular bail in case of FIR No. 450 dated 2.10.2020, under Sections 420, 467, 468, 471, 120-B IPC, 1860 and Section 12(1)(b) of the Passports Act, 1967, registered at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioners submits that this FIR is off-shoot of FIR No. 360 dated 20.8.2020 and the accused therein have been granted bail by imposing the conditions. Submission is that State had proposed the conditions and petitioners volunteered to adhere to those conditions. The contention is that bail be granted by imposing similar conditions.

Learned State counsel on instructions from Inspector Jagdish Chander submits that the FIR No. 440 dated 13.9.2021 is off-shoot of FIR No. 360 dated 20.8.2020 and FIR No. 450 dated 2.10.2020 is off-shoot of FIR No.440 dated 13.9.2021. She submits that in case bail is to be granted, the petitioners be put to the same conditions as imposed in order dated 6.8.2022

while granting bail in FIR No. 360 dated 20.8.2020.

Order dated 6.8.2022 passed in CRM-M-37995-2021 is reproduced

below:

"Vide this common order above mentioned three petitions are being disposed of as they arise from the same FIR.

These petitions are filed seeking regular bail in FIR No.360, dated 20th August, 2020 under Section 420, 467, 468, 471, 474, 198, 201 and 120-B IPC, 1860 and Section 12 (1) (B) of the Passport Act, 1967 and Sections 7, 8 and 12 of the Prevention of Corruption Act, 1988 and Section 66C and 66D of the Information and Technology Act, 2000 registered at Police Station City Tohana, District Fatehabad.

On 9.2.2022 the following order was passed :-

[1] Due to COVID-19 situation, the Court is convened through video conference.

[2] These petitions are filed seeking regular bail. The allegations in the cases are that accused, in connivance with each other, were procuring or aiding to procure passports on the basis of forged documents.

[3] On 1st February, 2022, following order was passed by this Court:

“Due to COVID-19 situation, the Court is convened through video conference.

These petitions are filed seeking regular bail in FIR No.360, dated 20th August, 2020 under Section 420, 467, 468,471, 474, 198 and 120-B IPC and Section 12(1)(B) of the Passport Act, 1967 and Sections 7, 8 and 12 of the Prevention of Corruption Act, 1988 and Section 66C and 66D of the Information and Technology Act, 2000 and FIR No. 450, dated 2nd October, 2020, under Sections 420, 467, 468, 471 and 120-B IPC and Section 12(1)(B) of the Passport Act, 1967, both registered at Police Station City Tohana, District Fatehabad. Both the FIRs are off-shoot of each other.

The primary argument of learned counsel for the petitioners are that officials of police department, postal department, passport office, accused who acted as facilitators and some of the accused who had applied for passports allegedly by using forged documents were either granted anticipatory or regular bail. The said orders were not challenged by the State.

The submission is that petitioners in view of nature of allegations are ready to abide by any reasonable conditions imposed to ensure their presence during the trial. They further submit that no further recovery is to be made, investigation is complete and conclusion of trial will take time. The submission is that custody period of the petitioners be taken into consideration.

Ms. Geeta Sharma, Deputy Advocate General, Haryana submits that against some of the accused the allegations are that while facing trial in other cases they tried to get the passports by forging documents or changing their identity. She seeks time to have specific instructions with regard to proposing the conditions to be imposed for grant of bail.

List on 9th February, 2022.

Photocopy of this order be placed on the file of connected cases.”

[4] Today, Ms. Dimple Jain, Assistant Advocate General, Haryana and Mr. Sandeep Kumar, Deputy Advocate General, Punjab, on instructions submit that considering the nature of allegations, there are chances of petitioners absconding in case they are granted bail. It is submitted that apart from statutory conditions, following conditions be imposed on the petitioners to ensure their presence in the trial Court :

(i) Petitioners shall surrender their passports (if they possess one) with the trial Court;

(ii) Petitioners would be required to mark their attendance once in a month in the concerned police station;

(iii) Petitioners will provide their mobile number and a mobile number of their family member, which will remain active during the pendency of the trial;

(iv) In case there would be any change in residential address of any of the petitioners, advance intimation would be given to the concerned police station and

(v) Petitioners would appear before the trial Court as and when required or called for.

[5] Learned State counsel further submit that there are off-shoots of present FIR, which are likely to come as the investigation with regard to the scam is still continuing. There are chances that further

material would be available. In case of such eventuality, the State be granted liberty to avail remedies in accordance with law.

[6] After hearing learned counsel for the State, learned counsel for the petitioners, on instructions, submit that conditions imposed are reasonable and petitioners volunteer to abide by the same during the trial.

[7] At this stage, learned State counsel seek adjournment stating that matter is fixed before the trial Court on 17th February, 2022 for framing of charges. They submit that request would be made before the trial Court for framing of charges before the next date of hearing in this Court.

[8] List on 7th March, 2022.

[9] Photocopy of this order be placed on the files of connected cases.

*The role attributed to the petitioner-**Jayant Singh** is that his name was disclosed in a supplementary statement made by Monu Sachdeva. He played an active role in forging the documents of the applicants, facilitating in filing of applications for issuance of passports by withholding their antecedents or changing the identity. The petitioner is in custody since 11.9.2020 and is involved in three more FIRs. Out of three FIRs, he is on bail in one FIR.*

*The role attributed to the petitioner-**Anil Bhatia** is that he received fake passports from the post offices. He was witness in some of the applications made on the basis of forged documents. He used to provide fake addresses of Tohana to the applicants. There are call records showing that he was in constant touch with the co-accused Monu Sachdeva. The petitioner was arrested on 2.9.2021 and he is involved in six more FIRs. Out of six FIRs, the petitioner is on bail in two FIRs, in one case the sentence is suspended and is released on probation in another case.*

*The role attributed to the petitioner-**Monu Sachdeva** is that he in connivance with co-accused-Anil Bhatia and Jayant Yadav used to charge huge amount for getting the passports issued on the basis of fake/forged documents. The petitioner was arrested on 5.9.2020 and is involved in five more FIRs. Out of five FIRs, he is on bail in four FIRs.*

Learned counsel appearing on behalf of the petitioners on instructions reiterated that they are ready to adhere to the conditions proposed in the order dated 9.2.2022. It is further submitted that the petitioners volunteer to give their voice samples, if so, required.

Learned State Counsel on instructions from Inspector Jagdish opposes the prayer for grant of bail submitting that the petitioners had played active roles for getting the passports issued on the basis of fake documents. However, on instructions she is not in a position to raise any substantial objection that in view of the conditions proposed in order dated 9.2.2022 there is a prima facie no chance of petitioners absconding. She submits that there are off-shoot cases of the present FIRs for which the investigation is continuing. There

are chances that further material may be available against the petitioners and in such eventuality, the State be granted liberty to avail remedies as per law.

Considering the custody period and the fact that though investigation is complete, charges have been framed yet conclusion of trial is likely to take time and co-accused were granted bail, the petitioners are granted bail subject to their furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned. The bail is granted subject to the petitioners adhering to the conditions No. 1 to 5 proposed in order dated 9.2.2022 and giving their voice samples, if so, required. It is clarified the conditions imposed are over and above the conditions prescribed under the Cr.P.C.

Needless to say that in case of change of circumstances or on a fresh material being available with the investigating agency, the State would be at liberty to avail remedies in accordance with law.

The petitions are allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

A photocopy of this order be placed on the file of connected case(s)."

Considering the custody period and the fact that though investigation is complete, charges have been framed but conclusion of trial is likely to take time and accused in FIR having similar allegations were granted bail, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. The bail is further subject to the petitioner adhering to the conditions imposed vide order dated 6.8.2022 passed in CRM-M-37995-2021 and giving their voice samples, if so, required. It is clarified that the conditions imposed are over and above the conditions prescribed under the Cr.P.C.

Needless to say that in case of change of circumstances or on a fresh material being available with the investigating agency, the State would be at liberty to avail remedies in accordance with law.

The petition is allowed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

1st September, 2022

reema

Whether speaking/reasoned Yes

Whether reportable No