

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

211

**CRM-M-24193-2022
Date of decision: 02.06.2022**

SANTOSH AND ANOTHER

... Petitioners

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Pankaj Bali, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioners in case bearing FIR No.50, dated 25.12.2021 under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 and Section 66-C of the Information and Technology Act, 2000, registered at Police Station Cyber Crime, Karnal, Haryana.

As per the case of the prosecution, the FIR in question was registered at the instance of Dr. Swati Kalia, Medical Officer, In-charge of PHC, Sambhli-cum-Registrar, Birth and Death. It was alleged that the ID of the Registrar Birth and Death, PHC Sambhli could not be logged in during the month of June, 2021 despite repeated attempts. After several days, when the login ID could not be operated, information in this regard was sent to the Registrar, Birth and Death, Karnal vide e-mail on 15.06.2021, 16.06.2021, 30.07.2021 and 09.08.2021. When finally, the Login ID could be accessed, it was found that 13 entries of birth had been registered and verified on the

portal. It was alleged that there is no document available in the office about the said entries and that the same had not been made by the office of Registrar, Birth and Death and there was no record of the same. It was alleged that the software of the office was hacked by certain unknown persons and they had issued the forged birth certificates on-line. Consequently, upon registration of the said FIR, the investigation was conducted. Recovery of forged birth certificates was effected from two laptops, CPU and two mobile phones that had been recovered from the two petitioners in case bearing FIR No.42 of 2021 dated 01.08.2021 registered at Police Station Cyber Crime, Karnal. The presence of the petitioners was secured by obtaining production warrants on 12.01.2022 and they were taken into custody in the instant case. Learned counsel for the petitioners contend that the petitioners were already in custody in the aforesaid case bearing FIR No.42 of 2021 dated 01.08.2021 and that the entire recovery had already been effected. Learned counsel contends that the present FIR has been devised as a mechanism by the respondent-prosecution agency to prolong the custodial detention of the petitioners by taking a complaint from the another Primary Health Centre in relation to the forgery of certain record of Registrar, Birth and Death. It is further argued by the learned counsel for the petitioners that in the other case i.e. FIR No.42 dated 01.08.2021, the petitioners have already been granted the concession of bail by the Court of Sessions Judge, Karnal vide order dated 20.04.2022. It is argued that the investigation in the present case is already complete and that the present case is triable by Magistrate, wherein the petitioners have already undergone an actual custody of nearly five months.

Per contra, learned State Counsel has contended that the petitioners alongwith co-accused had hacked into the Government system and had forged certain documents including the record pertaining to the birth and death and that

such an offence is a heinous offence. It is, however, not disputed that in the case, registered earlier, i.e. FIR No.42 dated 01.08.2021 the petitioners have already been released on bail and that the investigation of the case is not pending any more. The final report already stands filed and charges have also been framed. However, no prosecution witness has been examined so far.

Taking into consideration the circumstances noticed above, the period of custody, the nature of allegations as well as the stage of trial coupled with the fact that conclusion of trial might take a long time, I deem it appropriate to allow the instant petition.

Accordingly, the present petition is allowed and the petitioners are admitted to regular bail subject to their furnishing heavy bail/surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

It is made clear that the petitioners will not extend any threat and will not influence any prosecution witness in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

June 02, 2022
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*