

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(230)

CRM-M-28043-2022

Date of decision: - 07.09.2022

Parvesh Kumari

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.01 dated 01.01.2021, under Sections 406, 420 and 506 IPC, registered at Police Station Ram Nagar, District Karnal.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 28.01.2022 and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom none have been examined and thus, the trial is likely to take time. It is further submitted that the case is triable by the Magistrate and as per the FIR, the allegations with respect to

inducement and fraudulently taking money from the complainant, have not been levelled against the present petitioner and the only allegation levelled against the petitioner in the FIR is to the effect that after the other co-accused had taken money, the complainant had taken his sons to Srinagar and had met co-accused, namely, Surinder Kumar, who had then taken them to a hotel where they met with two of his accomplices, one of whom was the present petitioner. It is also submitted that the petitioner was not made an accused in the FIR and has been only subsequently implicated on the basis of the disclosure statement of Surinder Kumar. It is stated that at any rate, the best case of the prosecution against the present petitioner is that he was to get 20% commission, after the money had been paid to the co-accused by the victim and even the said amount has not been paid to the petitioner.

Learned State counsel on the other hand has opposed the present petition for regular bail and has submitted that the petitioner was a part of the whole conspiracy of duping people by alluring them on the pretext of providing them jobs in the Army. It is further submitted that the petitioner is involved in three other cases.

Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in “**Maulana Mohd. Amir Rashadi Vs. State of U.P. and another**”, reported as 2012 (2) SCC 382 to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is

reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has gone through the paper-book.

The petitioner has been in custody since 28.01.2022 and the investigation is complete and the challan has been presented and there are total 17 prosecution witnesses, out of whom none have been examined and thus, the trial is likely to take time. The petitioner was not made an accused in the FIR and although, in the FIR, it had been stated that co-accused Surinder Kumar, after taking the money from the complainant, had met the complainant and his sons in Srinagar and had then taken them to a hotel where they met his accomplices, one of whom was the present petitioner, but no specific allegation has been levelled against the present petitioner. The petitioner is stated to be involved on the basis of the disclosure statement of the co-accused. The present case is triable by the Magistrate.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to her not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to 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.

September 07, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes