

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32491-2021(O&M)
Date of decision : 24.03.2022

Gurdeep Sarpal

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present : Mr.A.S.Nirmaan, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

CRM-11002-2022

This is an application under Section 482 Cr.P.C. praying for placing on record the amended the petition as inadvertently Section 408 IPC (which was removed later on) has been mentioned in the petition and Section 409 IPC (which was added later on), has not been mentioned in the petition.

Learned State counsel has no objection if the application is allowed.

In view of reasons given in the application and no objection from the State counsel, the present application is allowed. The amended petition is taken on record.

CRM-M-32491-2021

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.261 dated 15.06.2021 registered under Sections 409, 420, 465, 467, 468, 471, 120-B IPC at Police Station Division no.5, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, the allegation with respect to having taken money is against ex-wife of the petitioner namely Harbans Kaur who was an agent in the Post Office at Ludhiana. It has been submitted that even the alleged cheque had been issued by the said ex-wife and the only allegation against the present petitioner is that the petitioner was a part of the conspiracy with his ex-wife. It has further been submitted that the petitioner has taken divorce from his wife on 17.08.2020 and in the MOU dated 09.08.2019 it has been stated by Rajinder Kaur complainant and three other persons who belong to the second party that Harbans Kaur had taken Rs.20 lacs from them which has been returned and the security cheques so issued by Harbans Kaur would not be misused by the said second party. Learned counsel for the petitioner has further submitted that the petitioner has been in custody since 20.06.2021 and there are 14 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time moreso, in view of the present pandemic.

Learned State counsel has opposed the present petition for regular bail and has submitted that in the present case, as per the allegations in the FIR, a total sum of Rs.36 lacs has been taken by the wife of the petitioner and the petitioner, as per allegation, is also part of the conspiracy.

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

It is Harbans Kaur, who is stated to be wife of the petitioner, and was working as an agent in the Post Office and the money is stated to have been withdrawn by her and even the cheque in question, which was stated to have been dishonoured, had been issued by her. The only allegation levelled against the petitioner on the basis of which he is sought to be implicated under Section 120-B IPC, was that the petitioner was a part of the conspiracy with Harbans Kaur. It is the case of the petitioner that the petitioner has already obtained divorce from said Harbans Kaur on 17.08.2020. Reference has also been made to the Memorandum of Understanding dated 09.08.2019 (Annexure P-2) in which Harbans Kaur is party no.1 and Rajinder Kaur complainant along with three other persons including Anoopinder Singh who is the husband of the second complainant Jasleen Kaur are the party no.2 in the said MOU. As per the said MOU, said Harbans Kaur had taken Rs.20 lacs from the party no.2 and said amount is stated to have been paid back and it was stated that nothing is due from Harbans Kaur and the security cheques would also be returned to the said Harbans Kaur. The petitioner has been in custody since 20.06.2021 and challan in the present case has already been presented and there are 14 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time moreso, in view of the present pandemic. The petitioner is not involved in any other case. The entire case is based on documentary evidence.

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 his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any

other case.

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.

(VIKAS BAHL)
JUDGE

March 24, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No