IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36885-2021
Date of Decision:-14.1.2022

ARVIND SINGLA

… Petitioner

Versus

STATE OF UT, CHANDIGARH

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. R.S. Cheema, Senior Advocate with
Mr. Arshdeep Singh Cheema, Advocate
for the petitioner.

Mr. Rajiv Anand, Addl. P.P. U.T. Chandigarh.

Mr. G.P.S. Bal, Advocate
for the complainant.

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KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of COVID-19 Pandemic.

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail on behalf of petitioner in case FIR No.133 dated 8.6.2021 registered under Sections 420, 465, 467, 468, 471, 201, 120-B at Police Station Sector 26, Chandigarh.

Learned Senior counsel for the petitioner submits that the petitioner has been falsely implicated in the present case at the instance of his cousin Deepak Singla and his wife Shweta Singla, who is complainant in the present case. It is further contended that petitioner and Deepak Singla were running M/s Bell Enterprises whereas Shweta Singla was owner of M/s K.S. Enterprises. While referring to balance sheet dated 31.3.2016 (Annexure P-1/A) of M/s Bell Enterprises, the counsel for the petitioner submitted that said firm owed approximately ₹4 crores to aforesaid M/s K.S. Enterprises and this fact clearly establishes that Deepak Singla being hand in glove with his wife Shweta Singla was causing losses to M/s Bell Enterprises and financial gains to the firm owned by his wife Shweta Singla.

The learned Senior counsel for the petitioner further contended that as per allegations in the FIR, the petitioner in connivance with his co-accused prepared forged modified partnership deed dated 16.06.2016, when Deepak Singla was admitted in Fortis Hospital Mohali as he sustained accidental firearm injury. It is further contended that in the FIR there are no allegations regarding fabrication of Memorandum of Understanding (in short 'MOU') dated 16.06.2016. The counsel for the petitioner further argued that as per the complainant she came to know about the fabrication of aforesaid modified partnership deed on 10.02.2020 when the Metropolitan Magistrate, Delhi issued non-bailable warrants against her in a criminal complaint relating to dishonour of cheque. Thereafter she lodged complaint in writing against the petitioner on 21.12.2020 and finally FIR was registered on 8.6.2021 and the petitioner was arrested on 17.6.2021 and on completion of investigation, challan was presented against the petitioner on 21.6.2021.

The counsel for the petitioner further contended that the plea taken by the complainant that she came to know about fabrication of the disputed documents in 2020 stands belied. The counsel for the petitioner, in this regard referred to different documents i.e. notice dated 28.6.2016 published in the Tribune (Annexure P-14), letter dated 15.7.2016 sent by Deepak Singla to Beetel Teletech Ltd. (Annexure P-13), letter dated 19.7.2016 sent by Deepak Singla to State Bank of India (Annexure P-12), affidavit dated 19.7.2016 given by Deepak Singla to Punjab National Bank (Annexure P-11), letter dated 21.7.2016 sent by Bell Enterprises to Punjab National Bank under the signatures of the complainant and her husband Deepak Singla (Annexure 20-A), reply dated 17.12.2016 to legal notice by Deepak Singla (Annexure P-15) and copy of order of Bombay High Court dated 11.9.2018 in arbitration petition filed by Ingram Micro India Pvt. Ltd. against Bell Enterprises (Annexure P-16). The counsel for the petitioner further argued that after going through all these documents, it stands established that Deepak Singla and his wife Shweta Singla were fully aware about the aforesaid modified partnership deed from the very beginning. The silence on their part for the next 3-4 years is enough to establish falsity of the FIR. In the FIR nothing was stated regarding MOU dated 16.6.2016, however, police in its report under Section 173 Cr.P.C., has alleged that the said MOU dated 16.6.2016 is also forged and fabricated document. That the said allegation also stands rebutted. In this regard the counsel for the petitioner referred to sale agreement dated 16.6.2016 (Annexure P-5), sale deed dated 11.7.2016 (Annexure P-4), sale agreement dated 16.6.2016 (Annexure P-9), another sale agreement dated 16.6.2016 (Annexure P-6), affidavit dated 1.7.2016 of Deepak Singla (Annexure P-7), reconstitution of partnership deed 28.6.2016 (Annexure P-7A), agreement to sell dated 16.6.2016 (Annexure P-8), document of transfer of ownership of Range Rover car No.CH01BG-0008 (Annexure P-10).

The counsel for the petitioner further argued that as per allegations appearing in the FIR, when Deepak Singla was admitted in Fortis Hospital Mohali for treatment of firearm injury, petitioner visited the hospital to sympathies with him and the complainant and both husband & wife signed some documents on the asking of the petitioner, in good faith, and at that time the complainant and her husband being under stress and strain, had not read the contents of the said documents. The counsel for the petitioner further contended that in this manner the complainant as well as her husband have admitted their signatures on the disputed documents.

The counsel for the petitioner further contended that in the report under Section 173 Cr.P.C. submitted by the police there are also allegations that the petitioner had illegally withdrawn amount of ₹47 lakhs, ₹5 lakhs and ₹19.50 lakhs, respectively belonging to the complainant and her husband. The counsel for the petitioner while referring to copies of cheques of ₹47 lakhs and ₹5 lakhs respectively, submitted that both these cheques were issued under the signatures of Deepak Singla and thus the complainant and her husband were fully aware about the said bank transactions from the very beginning. It was further contended that there was no bar on the petitioner to withdraw amount of ₹19.50 lakhs from the concerned bank account.

The counsel for the petitioner further contended that the petitioner is already in custody for the last more than 6 months and the trial is not progressing ahead. That even as per the provisions of Section 437(6) Cr.P.C. the petitioner is entitled to grant of regular bail. The counsel for the petitioner contended that the petitioner is facing one another criminal case in which he has already granted bail by the Co-ordinate Bench of this Court. While referring to **Criminal Appeal No.152 of 2020** titled as **Prabhakar Tiwari vs. State of U.P.** decided on **24.1.2020** by the Hon'ble Supreme Court, the counsel for the petitioner contended that even pendency of several other criminal cases cannot be the basis for refusal of prayer for bail. The counsel for the petitioner also referred to **Sanjay Chandra** vs. **CBI (2012)1 SCC 40**, wherein the Hon'ble Apex Court granted bail in 2G Spectrum Scam case with following observations:-

> "We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI."

On the other hand the APP for the U.T. Chandigarh assisted by counsel for the complainant, submitted that during investigation statements of the concerned Notary Public and other persons were recorded which show that the complainant and her husband Deepak Singla never appeared before any such Notary Public to get attested the disputed modified partnership deed and MOU, both dated 16.6.2016. It is further contended that at the relevant time Deepak Singla was admitted in Fortis Hospital as he had sustained accidental firearm injury. It was further argued that one can well imagine that in such a situation Deepak Singla and his wife were under great stress and trauma. So there was no occasion for them to execute any such documents. It was further contended that the documents (Anenxure P-5 to Annexure P-16) which are referred by the counsel for the petitioner are not bearing signatures of the complainant and as such she is not in a position to admit or deny their execution. It is further contended that sufficient evidence available on the record to show that apart from fabricating, modified partnership deed and MOU both dated 16.06.2016, the petitioner had also illegally withdrawn amount of ₹47 lakhs, ₹19.50 lakhs and ₹5 lakhs from the concerned bank account and thus defrauded the complainant. It is further contended that even if alleged MOU dated 16.06.2016 is taken into consideration, stock worth ₹50 crores of firm M/s Bell Enterprises was to be transferred by the petitioner to Deepak Singla but petitioner failed to do so. The counsel for the U.T. Chandigarh while summing up the arguments made prayer that in the light of the fact that the petitioner is facing grave charges, the present bail application deserves to be dismissed.

I have considered the submissions made by the counsel for the parties.

As per the allegations in the FIR and the report submitted by the police under Section 173 Cr.P.C., petitioner in connivance with his co-accused, fabricated/forged modified partnership deed and MOU both dated 16.6.2016 and procured signatures of the complainant and her husband Deepak Singla on the said two documents by showing them sympathy as at that time Deepak Singla was admitted in Fortis hospital Mohali as he had sustained accidental firearm injury. The complainant as well as her husband have not specifically denied their signatures on both the aforesaid disputed documents. Even disputed withdrawals from bank account are also of year 2016. This being so, it is matter of evidence as to whether the disputed documents were procured/prepared by the petitioner unilaterally with mala-fide intention, specially when the complaint regarding said forgery was lodged with the police after about 3/4 years of the alleged forgery and withdrawals from the concerned bank account.

Admittedly the petitioner was arrested in this case on 17.6.2021 and is presently lodged in judicial custody. On completion of investigation, the police presented challan under Section 173 Cr.P.C. against the petitioner in the Court concerned. The trial Court took the cognizance and framed charges against the petitioner on 7.9.2021. However, till date no witnesses has been examined by the prosecution as has been stated by counsel for U.T. Chandigarh. As submitted by the learned Senior counsel, even the statutory provision of Section 437 (6) Cr.P.C. has become applicable as the trial is not proceeding further without any fault of the petitioner and statutory period of 60 days as prescribed under aforesaid provision of law has already expired. No plea has been taken on behalf of the prosecution that if released on bail, the petitioner will abscond or pressurize the prosecution witnesses or tamper with the evidence. Admittedly the petitioner has been granted regular bail in the another criminal case having FIR No.63 dated 2.3.2021 under Sections 452, 331, 344, 365, 386, 419, 420, 465, 467, 468, 471, 473, 474, 477 and 120-B, (Sections 166, 201, 218, 328, 452 IPC and Sections 13(1)(2), 7 of the Prevention of Corruption Act, 1988 added in challan/report under Section 173 Cr.P.C.), registered at Police Station Sector 39, Chandigarh by the Co-ordinate Bench of this Court, vide order dated 15.12.2021. I am of the view that pendency of any other criminal case against the petitioner cannot be made ground for refusal of prayer for bail in the present case. In this context reference be made to **Prabhakar Tiwari's** case (supra) wherein the Hon'ble Supreme Court declined to interfere in the matter with following observations:-

> *"On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon*

considering relevant materials. No ex-facie error in the order has been shown by the appellant which would 8 establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed."

Furthermore the Hon'ble Supreme Court in **Sanjay Chandra's** case (supra) observed as follows:-

"In `Bihar Fodder Scam', this Court, taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could be imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose."

The petitioner is in custody for the last more than 6 months. Due resurgence of COVID-19 in the region, the trial Courts have again reverted back to restricted working and thus it will take considerable long time for conclusion of the trial.

Keeping in view the facts and circumstances of the case as discussed above and the period of incarceration undergone by the petitioner, no purpose would be served by keeping the petitioner behind the bars for any longer period.

Accordingly the present petition is allowed and the petitioner is directed to be released on bail subject to his furnishing requisite bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, on the following conditions:-

(a) The petitioner shall not directly or indirectly pressurise or threaten or induce the prosecution witnesses.

(b) The petitioner shall remain present before the trial Court on the dates fixed for hearing of the case. However, in case of his absence, he shall immediately give intimation to the Court concerned regarding reason of his absence.

(c) The petitioner shall surrender his passport (if any).

Nothing expressed hereinabove would be construed to be expression of any opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

14.1.2022
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No