

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 24.01.2022

1. CRM-M-36440-2021 (O&M)

Manoj Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

2. CRM-M-36448-2021 (O&M)

Manoj Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

3. CRM-M-36943-2021 (O&M)

Manoj Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner (in all cases).

Mr. Chetan Sharma, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in all these three petitions is for grant of regular bail to petitioner Manoj Kumar, in **FIR No.345** dated 24.04.2018 under Section 420, 406, 120-B, 204 IPC and Section 3 of Haryana Protection of Depositors in F.E. Act, 2013, registered at Police Station Sector-7, District Faridabad, **FIR No.344** dated 24.04.2018 under Section 420, 406, 120-B, 204 IPC and Section 3 of Haryana Protection of Depositors in F.E. Act, 2013, registered at Police Station Sector-7, District Faridabad and **FIR No.343** dated 24.04.2018 under Section 420, 406, 120-B, 204 IPC and Section 3 of Haryana Protection of Depositors in F.E. Act, 2013, registered at Police Station Sector-7, District Faridabad

Learned counsel for the petitioner submits that the petitioner was initially arrested on 18.04.2019 and thereafter, number of FIRs of similar nature under Section 420 IPC have been registered and he has been shown to be in custody in all the FIRs. It is further submitted that even litigations under Section 138 of the Negotiable Instruments Act, 1881 are also filed by various persons. Learned counsel has relied upon the order dated 05.07.2021 passed in CRM-M-4020-2021, CRM-M-13199-2021 and CRM-M-13152-2021, vide which co-accused Amit Goyal was granted the concession of regular bail, by passing the following order: -

“...Prayer in these petitions, filed under Section 439 (1)(b) Cr.P.C. read with Section 482 Cr.P.C., is for dispensing/relaxation of a condition imposed by the trial Court while granting regular bail to the petitioners in FIR No. 343, FIR No. 344 and FIR No. 345, dated 24.04.2018, all registered under Sections 420, 406, 120-B, 204 of the IPC and Section 3 of the Haryana Protection of Interest of Depositors Act, 2013 at Police Station Sector 7, District Faridabad, vide orders dated 05.04.2019 regarding constitution of a Monitoring Committee.

At the very outset, learned counsel for the petitioners submits that petitioner No. 1 Puneet Goyal has died on 01.05.2021 while in judicial custody and the proceedings qua him stand abated.

Learned counsel further submits that in the present FIRs, the Additional Sessions Judge, Faridabad, vide order dated 05.04.2019, has granted concession of regular bail to the petitioners, however, certain conditions were imposed, which cannot be fulfilled in view of the fact that NCLT, Delhi, on 30.03.2019, has appointed an Interim Resolution Professional (for short 'IRP') and petitioner No.2 is not in a position to manage the affairs of the company in view of the said order.

Learned counsel further submits that as per aforesaid order, NCLT, Delhi has issued certain directions to IRP, which are contemplated under Sections 15, 17, 18, 19, 20 and 21 of the

Insolvency and Bankruptcy Code, 2016 and, therefore, petitioner No. 2 cannot fulfill the said condition imposed by the Additional Sessions Judge that a Monitoring Committee should be constituted for supervising all the affairs of the company as the same is being looked after by IRP as per the order of NCLT, Delhi.

Learned counsel further submits that thereafter, petitioners had moved an application before the Additional Sessions Judge for modification of the said order, which was dismissed on the ground that it has no jurisdiction to review its earlier order.

Learned counsel further submits that despite the fact that regular bail was granted to petitioners on 05.04.2019, both the petitioners were still in judicial custody and during this period, even petitioner No.1 Puneet Goyal has died on 01.05.2021.

Learned counsel relies upon order dated 17.11.2020 passed in CRM-M-36918-2020, wherein both the petitioners were granted concession of regular bail in another FIR No. 289 considering the fact that petitioners are behind the bars for the last about 02 ½ years and while granting bail, no such condition was laid down.

Learned counsel also relies upon order dated 21.07.2020 passed in CRM-M-5522-2020, wherein both the petitioners were granted regular bail in another FIR No. 359 considering the

fact that they are in long custody of more than two years.

Learned counsel further relies upon order dated 10.02.2021 passed in CRM-M-43460-2020, vide which both the petitioners were granted regular bail in FIR No. 690. The operative part of this order reads as under:

“Whether in the present matter a case under Sections 420, 406, 120-B IPC and Section 3 of Haryana Protection of Interest of Depositors in FE Act, 2013 is made out against the petitioners would be debated during the course of trial. However, the petitioners have been in custody in this and other similar cases for the last over 2½ years; report under Section 173 Cr.P.C. has already been filed and therefore the petitioners are not in a position to tamper with the prosecution evidence/witnesses; their Passports already stand deposited with the Investigating Officer; through orders dated 21.07.2020 and 17.07.2020 passed in CRM-M-5522-2020- Amit Goyal and another and CRM-M-36918-2020 – Puneet Goel and another, after considering similar objections as raised by the State in this case, this Court has granted regular bail to the petitioners; out of 20 similar cases against the petitioners they have already been granted bail in 18 of them and the petitioners' trial in which 72 prosecution witnesses are still to be examined

is likely to take a long time to conclude especially in the present circumstances when the world is facing the COVID-19 pandemic.

In view of the above, the present case is considered to be a fit one in which the petitioners be directed to be released on regular bail. Resultantly, subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Faridabad the petitioners are directed to be released on bail.”

A perusal of the aforesaid order reflects that while granting bail to the petitioners, it was noticed that both the petitioners are involved in number of other cases and considering their long custody, they were granted bail.

Learned counsel further submits that while disposing of aforesaid petitions, no such condition has been imposed by this Court for appointment of any Monitoring Committee.

Learned State counsel could not dispute the factual position that petitioners were granted regular bail by the Additional Sessions Judge and as on date, petitioner No.1 Puneet Goyal has died, whereas petitioner No.2 Amit Goyal is in judicial custody for the last more than three years.

After hearing learned counsel for the parties and considering the aforesaid facts and circumstances, the present petitions are allowed and the condition(s), imposed in the

impugned order(s) dated 05.04.2019 that a Monitoring Committee be constituted, is hereby waived off.

Accordingly, petitioner No.2 Amit Goyal is directed to be released on regular bail on his furnishing bail bonds of Rs.1 Lakh each with two sureties of like amount subject to the satisfaction of the trial Court/Illaq Magistrate concerned. He will also surrender his passport, if already not surrendered, before the trial Court and will not leave India without prior permission of the Court.”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner was also shown to be one of the director, who had issued the cheques, however, due to poor financial condition of the company, the entire business was taken over in view of the order passed by NCLT, Delhi on 30.03.2019, when an Interim Resolution Professional was appointed. It is further submitted that the petitioner is in custody for the last about 02 years and 09 months; offences are triable by the Court of Magistrate; in view of the fact that he is involved in number of similar cases arising out of same investment made by various victims in the company i.e. Piyush Infrastructure Pvt. Ltd., the petitioner is no more required for further custodial interrogation and it will take some time in conclusion of the trial.

Reply by way of affidavit of the Investigating Officer/ASI Jaideep, Economic Offences Wing, District Faridabad is on record, in which details of the investigation and all the FIRs, which are pending against the

petitioner and other accused, are given. A perusal of the details shows that the petitioner along with other accused is facing trial in as many as 28 FIRs under Sections 406, 420, 467, 468, 471, 506, 120-B, 34 IPC. In para No.8 of this affidavit, it is stated that the petitioner was arrested on 18.04.2019; challan was presented on 30.07.2019 and till date, no prosecution witness has been examined.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in long custody and his co-accused have already been released on regular bail, all these three petitions are allowed and petitioner Manoj Kumar is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petitions are disposed of.

A photocopy of this order be placed on the files of other connected cases.

[ARVIND SINGH SANGWAN]
JUDGE

24.01.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No