

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

**CRM-M No.35515 of 2022
Date of Decision: 18.08.2022**

Karan Singh

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Vimal Kumar Gupta, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

N.S.Shekhawat J. (Oral)

The petitioner has moved the instant petition under Section 439 Cr.P.C. with a prayer to grant him a regular bail in case FIR No.104, dated 04.03.2022, under Sections 408, 420 of IPC (Later on Section 408 IPC was deleted and under Section 409 IPC was added), registered at Police Station Gandhi Nagar, Yamuna Nagar.

The complainant-Sanjiv Kumar submitted a complaint to the O/o Superintendent of Police, Yamuna Nagar that he had availed gold loan from I.I.F.L, Bank, Kamani Chowk, Jagadhri with the help of the Karan Singh-petitioner, who was serving as Branch Manager, I.I.F.L Bank and was also conducting all the dealings on behalf of the Bank. On 14.02.2022, the complainant informed Karan Singh (petitioner), that he wanted to close his loan account, he was informed that an amount of Rs.7 lacs was outstanding. The petitioner directed the complainant to deposit the said amount in the loan account, whereupon the loan account would be cleared. On assurance by the petitioner, he deposited Rs.7 Lacs on 17.02.2022 in the account disclosed by the petitioner, with a further

assurance by the petitioner that the gold of the complainant would be

returned to him after 2–3 days, as the amount would be adjusted after seeking permission from the head office. The complainant visited the bank number of times but the petitioner would linger on the matters and with these broad averments, the FIR was got registered by the complainant.

Learned counsel for the petitioner submits that FIR was initially registered under Sections 408 and 420 of IPC. However, later on Section 408 of IPC was ordered to be deleted and Section 409 of IPC was added. The complainant has levelled the allegations without any basis. He further submitted that the petitioner had deposited a sum of Rs.1,25,000/- to the gold account of the complainant. He further submits that he was arrested in the instant case on 04.04.2022 and his custody since then. He further submits that the petitioner is not maintaining good health and he also remain admitted in various hospitals for his ill bones. He further submits that the investigation is complete in the instant case and final report under Section 173 of Cr.P.C. has been presented. Learned counsel further submits that all the offences in the instant case are triable by the Court of learned Magistrate and his further custody would not serve any meaningful purpose. Still further, he is not in a position to influence the witnesses of the prosecution.

Learned counsel for the State has vehemently opposed the grant of concession of bail to the petitioner by, *inter alia*, contending that one more case i.e. FIR No.105 dated 04.03.2022 under Sections 409, 420, 120-B IPC (later on Sections 411, 414, 201 of IPC added), Police Station Gandhi Nagar, stands registered against the present petitioner. However, it is not in dispute that the petitioner has already been released on bail in

the said case by this Court in CRM-M-30630 of 2022, decided on 22.07.2022 (Annexure P-3).

It has been held by the Hon'ble Supreme Court of India in the matter of ***Sanjay Chandra VS. CBI, 2011(4) R.C.R.(Criminal) 898***, as follows:-

“14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

26. When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous.

The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.

This Court, in the case of State of Kerala Vs. Raneef (2011) 1 SCC 784, has stated :-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille."

I have heard learned counsel for the parties and have perused the record.

In view of the submissions made by learned counsel for the parties and also in view of the fact that the petitioner is in custody since 04.04.2022, the investigation is complete and final report has been presented under Section 173 Cr.P.C, the present petition deserves to be allowed.

Without commenting on the merits of the case, the present

petition is allowed. The petitioner is ordered to be released on bail on his

furnishing bail bonds/surety bonds to the satisfaction of learned trial
Court/Duty Magistrate/Chief Judicial Magistrate concerned.

18.08.2022
hemlata

(N.S.SHEKHAWAT)
JUDGE

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