

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42497-2021
Date of Decision: 07.05.2022

Charanjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Balkaran Singh Aulakh, Advocate
for the petitioner.

Mr. Kirat Singh Sandhu, DAG, Punjab.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.89 dated 26.06.2018 registered under Sections 420 and 34 IPC at Police Station Kabarwala, District Sri Muktsar Sahib.

2. The brief facts of the case are that the complainant-Davinderjit Singh S/o Amrik Singh moved an application dated 15.05.2018 to the Senior Superintendent of Police, Sri Muktsar Sahib stating therein that he along with his friend Lakhvir Pal Singh had paid a sum of Rs.35 lakhs each to the accused-Sukhbir Singh S/o Sucha Singh and Charanjit Singh (the present petitioner), the brother of Sukhbir Singh for sending them to America in the year 2013. Since, the complainant and Lakhvir Pal Singh were not sent abroad, therefore in the year 2016 a sum of Rs.6 lakhs was repaid to the complainant with a

promise to return the remaining amount of Rs.29 lakhs. The said amount was never returned to either the complainant or Lakhvir Pal Singh. Based on the said complaint, an inquiry was conducted and the aforementioned FIR came to be registered against Charanjit Singh S/o Sucha (the present petitioner), Sukhbir Singh S/o Sucha Singh Prabhjot Kaur @ Prabhjeet Kaur W/o Sukhbir Singh, Sonu S/o Gurraj and Randhir Singh S/o Tarsem Singh on the said application of Davinderjit Singh.

3. During the course of investigation, the statement of various witnesses were recorded and the name of four persons namely Jaswinder Kaur W/o Gurraj Singh, Chanan Singh S/o Mangal Singh and Gurmeet @ Mittu S/o Darbara Singh were nominated in the FIR leading to the addition of the offence under Section 120-B IPC.

4. The learned counsel for the petitioner submits that the petitioner has not received any money and has been implicated primarily on account of the fact that he is the brother of the main accused-Sukhbir Singh against whom as many as five FIRs are pending for having committed similar offences. In fact, the entire family of the petitioner and Sukhbir Singh has been implicated in the present case. He contends that the FIR has been registered after a delay of five years as the amount was allegedly paid in the year 2013 and the present FIR has been registered in the year 2018 and during this period no complaint whatsoever has been filed by the complainant or any other aggrieved person. Even otherwise, there is nothing on record to substantiate that

the sum of Rs.70 lakhs was actually paid as the complainant did not produce any document regarding his financial capacity to pay such an amount. He submits that the charges have been framed and 31 prosecution witnesses are to be examined and some of the co-accused of the petitioner have been granted the concession of anticipatory bail by this Court vide orders (Annexures P-2, P-3 and P-4). He lastly contends that the case is triable by the Court of a Magistrate and the petitioner is in custody since 13.07.2021 and therefore, since the investigation has already concluded, the further incarceration of the petitioner would not be necessary.

5. On the other hand, the learned State counsel submits that there are 09 accused in the present FIR. Accused-Sonu has expired and accused-Randhir Singh was declared a proclaimed offender by the learned Judicial Magistrate, 1st Class, Malout on 28.06.2021. Therefore, the challan in the present case was submitted against 06 accused on 25.08.2021 and the supplementary challan was submitted against accused-Sukhbir Singh only on 01.12.2021. Charges were framed on 22.02.2022 and no witness has been examined till date. He has submitted that as per the investigation each time the money was handed over to Sukhbir Singh, the petitioner was present and therefore, the contention of the counsel for the petitioner that the petitioner has been implicated only on account of his relationship with Sukhbir Singh is incorrect. He also submits that the co-accused Randhir Singh had issued two cheques to a witness Lakhvir Pal Singh but the said cheques were not encashed. Thus, proving that all the co-accused persons have formed a gang to

dupe innocent persons and the petitioner is one of the members of the said gang. References also made to the another FIR No.122 dated 10.10.2015 registered under Sections 420, 465, 467, 471, 120-B IPC at Police Station City Fazilka against the petitioner, where the trial is going on. However, so far as the period of custody is concerned, the counsel for the State has admitted that the petitioner is in custody since 13.07.2021 and no witness has been examined till date.

6. I have heard the rival contentions of both the parties.

7. Undoubtedly, the allegations are serious, though, it is the contention of the petitioner that it was his brother Sukhbir Singh, who was the main accused who had received the amount whereas the said amount is said to have been handed over by Sukhbir Singh to the petitioner as per the witnesses. The petitioner is in custody since 13.07.2021 and as many as 31 prosecution witnesses are yet to be examined. Therefore, the trial of the present case is not likely to be concluded in the near future, in a case which is otherwise triable by the Court of a Magistrate.

8. Keeping in view the aforesaid facts, the further incarceration of the petitioner is not required.

9. In view of above, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail. Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety

bonds to the satisfaction of the trial Court/concerned Duty Magistrate, concerned.

10. He shall surrender his passport if not already done so.

11. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and shall furnish an affidavit each time that he is not involved in any other crime other than the present case during the time he was on bail.

(JASJIT SINGH BEDI)
JUDGE

07.05.2022
JITESH

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