

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

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CRM-M-40398-2022

Date of Decision: 21.09.2022

Davinder Singh Gill

....Petitioner

V/S

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner

Mr. MS Attwal, DAG Punjab.

Mr. Surjit Singh Mahal, ASI

AMAN CHAUDHARY, J.

The present petition has been filed under Section 439 of Code of Criminal Procedure, 1973 for grant of Regular Bail to the Petitioner during the pendency of the trial in case FIR No.124 dated 15.08.2017 (Annexure P/1), registered at Police Station Mataur, SAS Nagar for offence punishable under Section 406, 420, 506 of the Indian Penal Code, 1860.

Brief facts of this case are that the present FIR is registered on the complaint dated 31.07.2017 moved by the complainant Balram Sharma on the allegations that in the year 2013 the complainant had paid certain amount to Davinder Singh Gill in order to bid for the liquor vends in Chandigarh. It is further alleged that on 01.04.2014, the complainant had paid Rs.17,50,000/- to Davinder Singh Gill for partnership in the liquor business. The said amount was given to Davinder Singh Gill by taking loan from friends

which was later returned to them after taking loan of Rs.24 lac from Axis Bank. The applicant informed him that he was not a successful bidder. After which the complainant requested the said Davinder Singh Gill to return his money, then Davinder Singh Gill told the complainant that he will pay 1.50% per month interest on the amount of Rs.10 Lac and he will pay interest 2% per month on the remaining amount of Rs.7,50,000/-. Thereafter, the accused failed to return the said amount. Later, the complainant came to know that the accused Davinder Singh Gill did not come at the time of bid and his liquor vends have already been closed as he is a defaulter of Excise Department. It has been further alleged that on 04.07.2015, Davinder Singh Gill entered in an agreement with the complainant to return the amount of Rs.26,80,000/- in monthly installment of Rs.2 lac each, but on 14.08.2015, he returned only Rs.1 lac. The amount paid by the complainant stands unpaid till date. In the last week of September, 2016, Davinder Singh Gill refused to repay the said amount. When the complainant said that he will take legal action against him, he threatened the complainant to kill him with his revolver.

Learned counsel for the petitioner contends that though the incident is of the year 2013, however, the FIR came to be registered in the year 2017 after almost 09 long years, and the petitioner was arrested on 28.03.2022, ever since he is in custody. Upon the challan having been presented, the charges were framed on 26.08.2022. He

further states that all offences mentioned in the FIR are triable by the Court of Magistrate, out of a total of 15 witnesses, only 01 has been examined as yet, therefore, the trial is likely to take a considerable amount of time.

Per contra, the learned State counsel submits that there are as many as 14 FIRs, registered against the petitioner. However, he is unable to controvert the aforesaid submissions made by the learned counsel for the petitioner including the stage of the trial.

In rebuttal, the learned counsel for the petitioner while referring to para 8(G) submits that in 09 out of the 14 FIRs, the petitioner was found to be innocent and in 03 out of the remaining 05 cases, he is already enlarged on bail.

Heard the learned counsel for the parties.

Keeping in view the facts and circumstances of the case, in particular that the FIR was lodged against the petitioner in the year 2017 for an alleged incident/transaction of the year 2013; the petitioner has been in custody since his arrest on 28.03.2022; the trial being magisterial; only one witness out of 15 has been examined; the trial is likely to take some time; his further detention behind the bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present petition is hereby allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to

him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.

In view of the above, this Court makes it clear that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on merits of the case and the trial would proceed independently of the aforesaid observations.

September 21, 2022
NainaRajput

[AMAN CHAUDHARY]
JUDGE

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