

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

205

**CRM-M-46267-2021
Date of decision : 07.04.2022**

Manoj Kumar @ Chottu

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Davneet Sangwan, Advocate, for
Mr. Sahil Chaudhary, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The prayer in the instant petition filed under Section 439 Cr.P.C., is for grant of concession of Regular bail in case FIR No.70 dated 24.02.2019 registered under Sections 420, 467, 468, 471 IPC, at Police Station Sector-5, Panchkula, Haryana.

Learned counsel appearing on behalf of the petitioner *inter alia* submits that the FIR in question had been registered against one Puneet Gupta, however, the name of the petitioner was arraigned as an accused without any valid basis. He further contends that the same was registered after a delay of 5 months which would reflect that the allegations have been concocted. There is no reason why the complainant would remain quiet for a period of 5 months in case an amount to the tune of Rs.1,20,000/- had been withdrawn from his account. He further submits that the petitioner is in custody in the instant case since 24.02.2019. The trial has so far not been concluded even though charge against the petitioner had been framed on 15.11.2019. He further submits that first date for recording of evidence was

fixed as 05.04.2021. No recovery of any nature whatsoever was effected from him. It is further argued that being a magisterial trial, in case the trial is not concluded within a period of 60 days of the date fixed for examination of the prosecution witnesses, the petitioner is even otherwise entitled to default bail in terms of Section 437(6) Cr.P.C.

Learned State counsel does not dispute the aforesaid factual assertions raised by the petitioner, however, it is urged that the petitioner is an accused in three other cases and submits that a sum of Rs. 50,000/- had been recovered from him.

I have heard learned counsel appearing on behalf of parties. It is un-controverted that the case in question is a magisterial trial. Section 437 (6) Cr.P.C., is extracted hereinafter below :

“(6) If, in any case triable by a Magistrate, the trial of a person accused of any non- bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.”

It is evident that despite expiry of more than 60 days from the date fixed for recording of evidence, the trial in question is not yet been concluded. The mere involvement of the accused in other cases does not deprive him of his entitlement to seek bail as per the law laid down by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi vs State Of U.P.& Anr., 2012 (2) SCC 382*** and subsequently also followed in the matter of ***Prabhakar Tewari Vs. State of U.P.***, passed in ***Crl. Appeal No.153 of 2020*** decided on

No valid reasons have been given for as to why the custodial detention of the petitioner is necessary for completion of the proceedings before the trial Court.

In view of the above and without commenting upon the merits of the case and in the totality of circumstances, I deem it fit and appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

The petitioner is ordered to be released on bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Panchkula.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

Disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

07.04.2022
anil

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>