

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

CRM-M-43294 of 2022 (O&M)

DECIDED ON: 23rd September, 2022

Ashu Nimbiwal @ Ajay Kumar

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ankur Sridhar, Advocate for
Mr. Rajesh Khandelwal, Advocate for petitioner.

Mr. Gurmeet Singh, AAG Haryana.

AVNEESH JHINGAN, J (ORAL)

This is third petition seeking regular bail in case of FIR No. 165 dated 9.6.2020, under Sections 420, 467, 468, 471 and 120-B IPC, 1860, registered at Police Station Uklana, District Hisar.

Learned counsel for the petitioner claims parity with co-accused Sajjan @ Sanju who was granted regular bail by this court on 31.8.2022.

On 31.8.2022, this court passed the following order:

"The present petition has been filed under Section 482 read with Section 439 and 437(6) of the Code of Criminal Procedure for the grant of statutory/regular bail to the petitioner in FIR No. 165 dated 09.06.2020, under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station Uklana, Hisar.

The learned counsel for the petitioner has submitted that it is a case where the petitioner was earlier involved in an offence under Section 307 IPC wherein a Birth Certificate was used for the purpose of declaring the petitioner as a juvenile and thereafter, he was declared as a juvenile and thereafter, when it was found that the Birth Certificate was fake, his bail was cancelled. He further submitted that thereafter the petitioner has been released on bail in the aforesaid FIR wherein he was involved under Section 307 IPC. He further submitted that in view of the fact that the Birth Certificate was found to be fake the present FIR has been lodged against the petitioner. He further submitted that in the present FIR he is in custody from 04.08.2021 which is more than 1

year and the investigation of the case has been completed and thereafter, the challan has been presented before the competent Court and even one witness has already been examined. He further submitted that it is yet to be determined and ascertained as to whether the Birth Certificate was forged or not and even otherwise also the entire case is dependent upon the documentary evidence and the petitioner has already faced incarceration for 1 year and therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that so far as the custody period of the petitioner is concerned, the same is correct and he has already been released on regular bail in FIR which was lodged against the petitioner under Sections 323, 324, 325, 326, 147, 149, 307 and 506 IPC. He further submitted that since the petitioner has procured fake Birth Certificate, he is not entitled for the grant of regular bail.

I have heard the learned counsel for the parties.

The petitioner has already faced incarceration for more than 1 year as per the learned counsel for the parties and the investigation of the case has been completed and thereafter, the challan has been presented. It is yet to be adjudicated as to whether the petitioner has procured the fake Birth Certificate, if any, or not but so far as the present case is concerned, the prayer for the petitioner is only for the grant of regular bail. Since he has already faced incarceration for more than 1 year and the case is dependent upon the documentary evidence, the petitioner deserves the concession of regular bail.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only."

Learned counsel for the State, appearing on advance notice though opposes the prayer for grant of bail but he is not able to distinguish the parity of the petitioner with the co-accused so far as grant of bail is concerned.

Without commenting on the merits of the case and on the basis of parity of the petitioner with the co-accused, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

23rd September, 2022
reema

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