

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46367-2021 (O&M)
Date of Decision: 20.04.2022

Jaswinder Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amjad Khan, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 0202 dated 01.11.2016, under Sections 406, 420 and 120-B IPC, registered at Police Station City Moga, District Moga.

The learned counsel for the petitioner has submitted that the petitioner is in custody from 28.05.2021 and charges have been framed in the present case. He further submitted that it is a case where the allegations against the petitioner were pertaining to deposit of an amount of total Rs. 3,00,000/- particularly pertaining to one family in the year 2012 and the present FIR has been lodged in the year 2016 and there had been a huge delay of 4 years in lodging of the FIR. He further submitted that as per the allegations the complainant and his family had deposited some money and the petitioner who was the Managing Director of the firm had given debenture to the complainant and his family members and at the most it

was a case of civil liability and the petitioner is facing incarceration for about 11 months and the entire case is based upon documentary evidence and, therefore, he may be considered for the grant of regular bail. He further submitted that although the petitioner was earlier not arrested and declared as a proclaimed offender but thereafter on his arrest his custody is almost 11 months and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has stated that so far as the custody period of the petitioner is concerned, the same is correct and it is also correct that the investigation of the case is complete and the charges have been framed and the entire case is based upon documentary evidence. He has however submitted that the petitioner is involved in one more case pertaining to similar kind of allegations and subject matter involved in the present case was only Rs. 3,00,000/-. He has however opposed the grant of bail on the ground that the petitioner has committed fraud upon the complainant and other persons.

I have heard the learned counsel for the parties.

The allegations against the petitioner were that he was the Managing Director of a firm and had received an amount of Rs. 3,00,000/- from different investors and given them debenture so that the same can be encashed afterwards but thereafter the money was not returned and the present FIR came to be lodged after a gap of 4 years. The charges have already been framed in the present case and the present case is triable by Magistrate. As per the learned State counsel no recovery is to be effected

from the petitioner, although the learned State counsel has expressed apprehension that in case the petitioner is released on bail, then he may abscond but on a specific query being asked as to on what material he has based his submissions with regard to the same, the learned State counsel submitted that considering the conduct of the petitioner that earlier he was declared as a proclaimed offender that there is likelihood that he may again abscond. However, once a person has been declared as a proclaimed offender prior to his initial arrest no presumption can be drawn that he will again abscond unless there is sufficient material available with the police in this regard. The petitioner is facing incarceration for about 11 months and the case is triable by Magistrate and the trial of the case would take long time and the entire case is based upon documentary evidence.

Therefore, without commenting on the merit of the case and considering the totality of circumstance, 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.

All the miscellaneous applications, if any, shall be deemed to be disposed of since the main case has been disposed of.

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.

20.04.2022

rakesh

(JASGURPREET SINGH PURI)**JUDGE**

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