

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

CRM-M-44673-2022(O&M)

Date of decision:-23.12.2022

Parveen Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Anurag Jain, Advocate with
Mr.Vijay Singla, Advocate
for the petitioner.

Ms.Vibha Tiwari, AAG, Haryana.

H.S. MADAAN, J.

1. This second petition for grant of regular bail has been filed by petitioner Parveen Kumar, an accused in FIR No.72 dated 21.2.2019 for the offences under Sections 406, 420, 120-B IPC, registered with Police Station Civil Lines, Hisar. Earlier the first petition for grant of regular bail filed by the petitioner and a separate petition brought by his co-accused Vinod Kumari bearing CRM-M-1890-2020 and CRM-M-2626-2020, respectively had been dismissed vide a detailed order dated 12.3.2020.

2. Briefly stated, facts of the case as per prosecution version are that complainant Ram Gopal Jindal son of late Sh.Nanak Chand Jindal, resident of House No.1491, Urban Estate-2, Hisar, aged about 66 years had submitted a written complaint to Incharge, Police Post, PLA, Hisar

against Kamal Nayan Minocha of Nation's Holy Co-operative (Urban) SETC Society Ltd., Congress Bhawan, Hisar that he was not returning his amount.

3. *Inter alia* in the complaint, the complainant submitted that he and his family members had deposited their money with the abovesaid concern; the amounts were being withdrawn from the account by them; on 1.2.2019 when he went to withdraw the amount from the society, he found the premises of society to be locked; on inquiry from the neighbourhood, the complainant came to know that Kamal Nayan Minocha along with his family had gone to Mumbai, where he was running transport company in which his family members were directors and he had invested the amount of depositors with the society in his transport business and rather he was planning to go abroad.

4. On the basis of such complaint, formal FIR was recorded. The petitioner along with his co-accused Vinod Kumari were arrested on 5.11.2019. They had filed petitions for grant of regular bail in the Court of Sessions but were unsuccessful there, as such, they had approached this Court earlier by filing CRM-M-1890-2020 and CRM-M-2626-2020, respectively, which were however dismissed vide a detailed order dated 12.3.2020. Now the petitioner Parveen Kumar has approached this Court again for grant of similar relief.

5. Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

6. I have given a thoughtful consideration to the rival contentions besides going through the record.

7. Since the first petition for grant of regular bail has been dismissed on merits vide a detailed order, for justifying filing a petition for grant of regular bail again, counsel for the petitioner was required to explain the change in circumstances.

8. Learned counsel for the petitioner has tried to advance arguments on the merits of the case but he has been told that since merits of the case have already been taken into consideration while dismissing the first petition for regular bail filed by the petitioner, he is to address the Court with regard to change in circumstances only. He has submitted that there has been change in circumstances on two counts, firstly co-accused of the present petitioner namely Vinod Kumari has been granted concession of bail by this Court vide order passed in CRM-M-23569-2022(O&M) on 9.9.2022, copy Annexure P8 and secondly there has not been satisfactory progress in the trial since dismissal of the first petition for regular bail.

9. As far as the first ground raised that co-accused of the present petitioner namely Vinod Kumari has been granted concession of bail, she had been granted concession of bail considering various reasons including that she is aged woman of 57 year not keeping good health. Whereas with regard to the petitioner Parveen Kumar, he is a young man of 33 years and there is no such assertion that he is not keeping good health and is suffering from some serious ailment.

10. As far as second reason given with regard to slow progress in the trial, it has to be taken note of that the FIR is dated 21.2.2019 and normal life was disrupted on account of outbreak of Covid-19 pandemic

for a considerable time. The proceedings in the cases also got stalled for a considerable time. However, the under-trials had been granted concession of bail keeping in view outbreak of Covid-19 pandemic. As is evident from the custody certificate placed on record by the State counsel, the accused remained on bail from 27.3.2020 up to 29.8.2022, as such he cannot complain that he had to suffer long incarceration in this case. Now his custody is for less than four months. As informed by the State counsel many material witnesses are yet to be examined and in case the petitioner is granted concession of bail, there is apprehension of his trying to influence the prosecution witnesses, therefore, he should not be granted the concession at least till material prosecution witnesses are examined.

11. I find force in this contention of learned State counsel. Written reply filed by the State counsel and status report sent by the trial Court go to show that witnesses had been appearing in the Court but were not examined either on request of the prosecution or accused due to non-availability of accused or such like reasons. Therefore, under the circumstances, the petitioner is not entitled to be granted concession of bail at this stage.

12. Finding no merit in the present petition, the same stands dismissed.

13. However, the prosecution is directed to ensure that appearance of all the material witnesses is caused in the Court on the date/dates fixed by the trial Court. The trial Court would of course give short adjournment for the purpose and record statements of witnesses, who are present instead of discharging them for frivolous reasons readily

accepting the request of prosecution or the defence for adjournment. It is directed that the trial Court shall not send any prosecution witness unexamined except for very compelling reasons, which be recorded in writing and request for adjournment to examine/cross-examine the PWs be rejected unless there are very strong circumstances to accept the request and then every endeavour be made to complete the trial expeditiously.

23.12.2022

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**