

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

Date of Decision : 01.12.2022

CRM-M-49509-2021

Arjun alias Muggu

....Petitioner

Versus

State of Haryana

...Respondent

CRM-M-50110-2021

Rakesh Puri

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gulshan Mehta, Advocate
for the petitioner(s)

Mr. Sumit Jain, Addl. Advocate General, Haryana
for the respondent-State.

PANKAJ JAIN, J. (ORAL)

By way of present order the afore-captioned petitions filed under Section 439 Cr.P.C. seeking regular bail on behalf of the petitioners in case FIR No.521 dated 8th of September, 2020 registered for the offences punishable under Sections 420, 467, 468, 471, 120-B IPC, 1860, at Police Station Chandni Bagh, Panipat, Haryana are being disposed off.

2. Names of the petitioners did not figure in the FIR. However, during investigation it was found that :

“2. That the petitioner has not come with clean hands and has

concealed the real, material, true and important facts from this Hon'ble Court. The case of the prosecution for the kind perusal of this Hon'ble Court is as under :-

- i. That the Taxation Inspector (Sale Tax), Ward-5, Panipat, Plot No.179, Sector-25, Part-II, HUDA, Panipat vide office memo No.3539/TOI (Ward-) dated 17/08/2020 had filed a complaint for registering FIR against M/s Khushi Enterprises, Address Shop No.253, Ground Floor, Sector-12, Panipat, GSTIN-06BRSPA6939C1ZP and others, on the allegations that :

"M/s Khushi Enterprises GSTIN-06BRSPA6939C1ZP had got itself registered at Shop No.253, Ground Floor, Sector-12, Panipat. During the inquiries, the given address was visited but no such firm was found functioning at the address. Taxpayer has uploaded photo and other details for taking registration at GST common portal.

Therefore, the proprietor of the firm Smt. Atony Amutha Rani P was trace and she was summoned u/s 70 HGST Act 2017. She replied the summons through email and also sent reply through registered post. She disclosed that she is a school teacher at Jegan Matha Matric Hr. Sec. School in Trichy, Tamil Nadu and she does not run any business in her name. She further clarified that someone had misused her documents.

Therefore, M/s Khushi Enterprises GSTIN-06BRSPA6939- CIZP (taxable person) and others have got itself registered under the HGST/CGST

Act, 2017 on the basis of fake and forged documents and deceived the Govt. Authorities fraudulently by submitting/uploading fake/forged documents and used Govt. GST online portal for utilizing input tax credit for himself and passing input tax credit to other firms/taxable persons by generating E- way bills and issuing invoices with dishonest intention to evade payment of taxes Hence, M/s Khushi Enterprises is a fictitious entity exists only in virtual space and created, through identity theft, for fraudulent activities and manipulations.

Details of supplies made by the dealer is as under:-

<i>Name of the firm</i>	<i>GSTIN</i>	<i>Taxable value</i>	<i>Tax Involved</i>
M/s Khushi Enterprises	06BRSPA6939C1ZP	170284980	11113574

In view of the facts narrated above, it is requested that FIR against M/s Khushi Enterprises 06BRSPA6939C1ZP, Shop No. 253, Ground Floor, Sector-12 Panipat (Taxable person) and others may be registered for offences under Sections 420, 467, 468, 471 of I.P.C. or as seems appropriate to your goodself and computer / electronic devices used for the same may be traced out and appropriate action as per law may be taken.

On the basis of above said facts and allegations, formal FIR No.521 dated 08/09/2020 under Sections 420, 467, 468, 471 of Indian Penal Code was registered at P.S. Chandni Bagh, Panipat.

ii. That after registration of the FIR, the investigation was

carried out by local police as well as Economic Crime Wing, Panipat ASI Vinod Kumar No.906 had served the notice u/s 91 Cr.PC. to the complainant and collected the relevant records pertaining to M/s Khushi Enterprises and others connected to it and from careful perusal it has been found that:

a. The culprits have used mobile No 8929117540 and 8818953952 and gmail id rowrif813@gmail.com in getting register above said firm on the online portal of complainant department and another gmail ID of subjected firm was found as khushi1010@gmail.com.

b. The culprits have given address while registration of M/s Khushi Enterprises, as Shop No 253, Ground Floor, Sector-12, Panipat.

c. That an account No. 10039194939 of IDFC First Bank, Sector-16, Faridabad of the said firm M/s Khushi Enterprises in the bank the mobile No.9582853258 and gmail id khushienterprises1234@gmail.com were used.

iii. That during the enquiry by the police on the verification of the above said documents and enquiry from the concerned person it has been ascertained that

a. That the ID of mobile No 8929117540 was found in the name of Akash Kumar S/o Ram Dayal, R/o House No.1-1896, Street No.22, Ratiya Marg, Sangam Vihar, Pushpa Bhawan, South Delhi and on enquiry he had stated on 24/06/2021 that the Aadhaar Card used in registration of the said firm belonging to him but he had never signed the said Aadhar Card and the PAN card used in the

said firm is not belonging to him and the photo depicting on the prepaid customer application form of mobile No.8929117540 does not belong to him and the alternate No 89291-18149 of the said mobile number also not belonging to him and he further said that his documents have been prepared and misused by someone in registration of M/s Khushi Enterprises and he had further stated that the copy of his Aadhaar had been taken by co-accused Rakesh Purl on the assurance of providing loan.

b. That the above said gmail id rowrlf813@gmail.com was found register on the above said mobile No.8929117540.

c. That no shop No.253 was found exists on enquiry from Sector- 12, Market Panipat. Sanjeev Kumar S/o Bhagwan Dass and Tushar Juneja S/o Vikram Juneja also stated on enquiry that no lady Amutha Rani P D/o Paul Null Kanagaraj ever resided there.

d. That the statement of account No.10039194939 of IDFC First Bank was obtained from period 15/04/2019 to 29/08/2019 which was found in the name of M/s Khushi Enterprises on the ID of the petitioner Arjun @ Maggu and further said account opened by the petitioner Arjun on his personal IDs and signatures, and Rs.50,000/- had also been transferred in this account from his personal saving bank account No 1811210319177866 through cheque No.000002. Copy of statement of

a/c No 10039194939 along with its account opening form with IDs and detail of the petitioner Arjun as a proprietor, and copy of cheque No.000002 whereby the money was transferred from the personal account of the petitioner to the account of M/s Khushi Enterprises, are enclosed herewith as **Annexure R-1** for the kind perusal of this Hon'ble Court.

e. That on 21/06/2021, Vikas Mehta owner of Mehta Construction and Anil Sharma Sub-Contractor of Ramesh Chander Contractor Co. Pvt. Ltd. had joined the investigation and stated that they had purchased cement of Rs.15,74,000/- from the dealer/co- accused Dinesh S/o Nursy Singh of M/s Khushi Enterprises.

f. That most of the concerned firm who had done business with M/s Khushi Enterprises were joined in the investigation, who had stated that they had done business with M/s Khushi Enterprises through its dealer/accused Rakesh Puri and agent/accused Dinesh Raj and Vishal Bansal (who had stated himself to be the owner of M/s Khushi Enterprises to the other firm) and most of them stated that fake bills of M/s Khushi Enterprises were provided to them by the accused. They have recorded their statements u/s 161 Cr.P.C. to this effect also.

g. That an amount of Rs.20 Lac on 03/04/2019, Rs.24,14,000/- on 08/04/2019 and Rs.30 Lac on 11/04/2019 in account No.10700-

01082048 of Bandhan Bank in the name of firm M/s Saraswati Enterprises in the name of co-accused Rakesh Puri from bank account of subjected firm M/s Khushi Enterprises. The statement of account No.10170001082048 of M/s Saraswati Enterprises depicting therein the relevant entries is enclosed herewith as **Annexure R-2** for the kind perusal of this Hon'ble Court.

The above said material evidence was sufficient with the police to arrest the petitioner, co-accused Dinesh Raj and Rakesh Puri in this case.

iv. That the petitioner and co-accused Rakesh Puri had been arrested by the police on 04/08/2021 and on interrogation they had suffered their separate disclosure statements admitting therein the manner in which they had committed the subjected crime in conspiracy and connivance with each other. The relevant part of the disclosure statement of the petitioner, stating therein his role in the crime, is as under:-

"I used to do the work of picking garbage in MCD Delhi. Rakesh Puri S/o Late Shyam Sunder Puri is residing in our colony in House No E-21, Partap Nagar, Metro Station, P.S. Gulabi Bagh North Delhi. I had acquaintance with him since the year 2018 Rakesh lured me to provide IDs to him and he will get open a firm M/s Khushi Enterprises on my name and for this work he will give Rs 40,000/- to me through Dinesh Raj. I had come in the sweet words of Rakesh Puri because I was in dire need of money. Due to greed, I had given my

Aadhar Card, PAN card and my photo to Rakesh Puri and my said documents were given by Rakesh Puri to Dinesh Raj S/o Narsy Singh R/o House No.64- B, Tilak Nagar, P.S. Tilak Nagar, Delhi, Dinesh Raj and Rakesh Puri had directed me to open a bank account in the name of fake firm M/s Khushi Enterprises. Rakesh Puri had lured me and taken me to IDFC First Bank Sector-16, Faridabad, where Dinesh Raj was also present. They had taken the bank account opening form on my name in favour of Khushi Enterprises and obtained my signature on all forms. They had filled my name and address in favour of Khushi Enterprises and succeed to open an account No.10039194939 in the name of Khushi Enterprises. After about 10-15 days they had taken the cheque book of this account and Rakesh Puri got my signature on all cheques at his house so as to they do not again need my signature for making transaction in the said account of M/s Khushi Enterprises. Rakesh Puri and Dinesh Raj had paid Rs.40,000/- for the work of, preparing fake firm on my name, open bank account and signing of cheques. After 5-6 months later, I had asked from Rakesh Puri about the said firm, who replied that the said firm is closed being a fake firm. Rakesh Puri had stated to me that he used to provide the ID and documents to Dinesh Raj and then Dinesh Raj used to provide the said documents to Vishal Bansal who used to sit in his office in the name of Bansal Group at B-6, Sushant Lok, F-1 Gurugram. In the said office, Sourabh Bansal used to do the work of get open the account and Pankaj Bansal used to work as

CA and also to provide GSTIN number by preparing company. Except this Rahul Nalonia used to do work for preparing the fake bills and also to collect money. Rakesh Puri and Dinesh Bansal had paid Rs.40,000/- to me for this work, which I had spent on food etc."

The petitioner has not effected any recovery in this case."

3. Ld. Counsel for the petitioners submits that neither of the petitioner was named in the FIR. Investigation already stands concluded as report under Section 173 Cr.P.C. stands filed with the Court concerned. The petitioners are in custody since 5th of August, 2021. It has been averred that despite presentation of report under Section 173 Cr.P.C. on 25th of October, 2021, the trial has not commenced. He further submits that even as per the prosecution version there is no incriminating evidence *qua* petitioner-Arjun alias Muggu as the concerns having business with Ms. Khushi Enterprises are stated to have dealt with co-accused Rakesh Puri, Dinesh Raj and Vishal Bansal and the petitioner does not figure anywhere in the business dealings. Admittedly, there is no other case pending against the petitioner Arjun alias Muggu. He further submits that so far as Rakesh Puri is concerned the allegations *qua* him are based upon confessional statements made by co-accused including Arjun and the same cannot be read against the petitioner-Rakesh Puri. It has been further asserted that the main thrust of the complaint against the petitioners w.r.t. Evading tax and of

having violated the provisions of GST Act yet no complaint has been filed under the provisions of GST Act.

4. Per contra, Ld. State Counsel submits that Rakesh Puri is a habitual offender and has four more cases pending against him for similar offences in FIR No.626 dated 25th of June, 2019, FIR No.732 dated 28th of July, 2019, FIR No.630 dated 25th of June, 2019 and FIR No.337 dated 20th of June, 2020, all are registered at Police Station Chandni Bagh, Panipat. However, he does not dispute the fact that the investigation in the present case stands concluded and the Challan stands presented.

5. I have heard counsel for the parties and have gone through the records of the case.

6. The parameters to be considered while deciding the prayer for bail are well laid down by Apex Court in the case of '**State through CBI vs. Amaramani Tripathi, (2005)8 SCC 21**', holding that:-

“xx xx xx

It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati vs. NCT, Delhi 2001 (4) SCC 280** and

Gurcharan Singh vs. State (Delhi Administration) AIR 1978 SC 179). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.”

7. There is no denial to the fact that the economic offences constitute a separate class of their own, but trite it is that presumption of innocence is one of the bedrocks on which the criminal jurisprudence rests. Time and again, Apex Court has reiterated the need to integrate the right of investigating agencies to have effective interrogation of the accused with the right of liberty of the accused. While dealing extensively with the rights of the accused in the economic offences, Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 AIR (Supreme Court) 3386** held as under:-

“xx xx xx

66. What is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise. This issue has already been dealt with by this Court in the case of **P. Chidambaram v. Directorate of Enforcement**, (2020) 13 SCC 791, after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not

advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgements, will govern the field:-

Precedents

P. Chidambaram v. Directorate of Enforcement,

(2020) 13 SCC 791:

23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and

gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.

Sanjay Chandra v. CBI (2012) 1 SCC 40:

“39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds: the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction

of the court and be in attendance thereon whenever his presence is required.

X XXX XXX

46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

ROLE OF THE COURT

67. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

68. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the Criminal Courts. Any conscious failure by the Criminal Courts would constitute an affront to liberty. It is the pious duty of the Criminal Court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest. This Court in

Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427, has observed that: “67. Human liberty is a precious constitutional value, which is undoubtedly subject to regulation by validly enacted legislation. As such, the citizen is subject to the edicts of criminal law and procedure. Section 482 recognises the inherent power of the High Court to make such orders as are necessary to give effect to the provisions of CrPC “or prevent abuse of the process of any court or otherwise to secure the ends of justice”. Decisions of this Court require the High Courts, in exercising the jurisdiction entrusted to them under Section 482, to act with circumspection. In emphasising that the High Court must exercise this power with a sense of restraint, the decisions of this Court are founded on the basic principle that the due enforcement of criminal law should not be obstructed by the accused taking recourse to artifices and strategies. The public interest in ensuring the due investigation of crime is protected by ensuring that the inherent power of the High Court is exercised with caution. That indeed is one—and a significant—end of the spectrum. The other end of the spectrum is equally important : the recognition by Section 482 of the power inhering in the High Court to prevent the abuse of process or to secure the ends of justice is a valuable safeguard for protecting liberty. The Code of Criminal Procedure, 1898 was enacted by a legislature which was not subject to constitutional rights and limitations; yet it recognised the inherent power in Section 561-A. Post- Independence, the recognition by Parliament [Section 482 CrPC, 1973] of the inherent power of the High Court must be construed as an aid to preserve the constitutional value of liberty. The writ of liberty runs through the fabric of the Constitution. The need to ensure the fair investigation of crime is undoubtedly important in itself, because it protects at one level the rights of the victim and, at a more fundamental level, the societal interest in ensuring that crime is

investigated and dealt with in accordance with law. On the other hand, the misuse of the criminal law is a matter of which the High Court and the lower courts in this country must be alive. In the present case, the High Court could not but have been cognizant of the specific ground which was raised before it by the appellant that he was being made a target as a part of a series of occurrences which have been taking place since April 2020. The specific case of the appellant is that he has been targeted because his opinions on his television channel are unpalatable to authority. Whether the appellant has established a case for quashing the FIR is something on which the High Court will take a final view when the proceedings are listed before it but we are clearly of the view that in failing to make even a prima facie evaluation of the FIR, the High Court abdicated its constitutional duty and function as a protector of liberty. Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of criminal law is not obstructed. The fair investigation of crime is an aid to it. Equally it is the duty of courts across the spectrum—the district judiciary, the High Courts and the Supreme Court—to ensure that the criminal law does not become a weapon for the selective harassment of citizens. Courts should be alive to both ends of the spectrum—the need to ensure the proper enforcement of criminal law on the one hand and the need, on the other, of ensuring that the law does not become a ruse for targeted harassment. Liberty across human eras is as tenuous as tenuous can be. Liberty survives by the vigilance of her citizens, on the cacophony of the media and in the dusty corridors of courts alive to the rule of (and not by) law. Yet, much too often, liberty is a casualty when one of these components is found wanting.”

(emphasis supplied)

8. Similarly, in the case of **Suresh Kalmadi vs. CBI, 2012(5)**

RCR (Cri.) 556 the Apex Court held:-

“xx xx xx

However, the evidence to prove accusations is primarily documentary in nature besides a few material witnesses. As held in Sanjay Chandra (supra) if seriousness of the offence on the basis of punishment provided is the only criteria, the Courts would not be balancing the Constitutional Rights but rather recalibrating the scales of justice.”

9. In **Anil Kumar versus State of Punjab, 2013(3) RCR (Criminal) 854** it was held:-

“xx xx xx

9. The latest judgment cited by the learned counsel for the petitioners is of the Hon'ble Supreme Court in Dipak Shubhashchandra Mehta (supra) wherein the entire law has held as under: -

“18. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted, particularly, where the accused is charged of having committed a serious offence. The Court granting bail has to consider, among other circumstances, the factors such as a) the nature of accusation and severity of punishment in case of conviction and the nature of supporting evidence; b) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and; c) prima facie satisfaction of the court in support of the charge. In

addition to the same, the Court while considering a petition for grant of bail in a non-bailable offence apart from the seriousness of the offence, likelihood of the accused fleeing from justice and tampering with the prosecution witnesses, have to be noted. Considering the present scenario and there is no possibility of commencement of trial in the near future and also of the fact that the appellant is in custody from 31.03.2010, except the period of interim bail, i.e. from 15.09.2011 to 30.11.2011, we hold that it is not a fit case to fix any outer limit taking note of the materials collected by the prosecution. This Court has repeatedly held that when the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. As posed in the Sanjay Chandra's case (supra) we are also asking the same question i.e. whether the speedy trial is possible in the present case for the reasons mentioned above."

Further, the Hon'ble Supreme Court in the case of Sanjay Chandra (supra) has held as under:-

"15. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is 'the seriousness of the charge'. The offences alleged are economic offences which has resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is

the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual. This Court, in Kalyan Chandra Sarkar Vs. Rajesh Ranjan- (2005) 2 SCC 42, observed that "under the criminal laws of this country, a person accused of offences which are non-bailable, is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorized by law. But even persons accused of nonbailable offences are entitled to bail if the Court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the Court is satisfied by reasons to be recorded that in spite of the existence of prima facie case, there is need to release such accused on bail, where fact situations require it to do so."

10. In Sanjay Chandra's case (supra) also the Hon'ble Supreme Court has considered the entire law on the subject.

11. I am conscious of the fact that serious allegations of connivance and causing financial loss to the State exchequer have been levelled against the petitioners. There are also allegations of dishonesty, forgery, cheating and charges under various Sections of IPC and Prevention of Corruption Act have been levelled. However, if the petitioners are allowed to be kept in judicial custody for indefinite period then Article 21 of the Constitution is violated. It is the fundamental right of every person in judicial custody for speedy trial. In the facts of the present case, it is to be seen whether keeping the petitioners in custody is justified specially when some of the persons who have been nominated during investigation are yet to be arrested and challan against them is to be presented on their joining investigation.

12. Second argument is regarding tampering with the evidence. I have considered this contention also. The entire case is based on the documentary evidence i.e. forged vouchers, bills and thereafter the payment to various contractors and others in connivance with the Government officials. This is not a case based on the oral testimony of individuals. No doubt the allegations against the petitioners are serious in terms of the alleged huge loss caused to the State exchequer, that by itself should not deter this Court from enlarging the accused on bail specially when they are already behind bars for about seven or more months. I do not see any good reason to continue the judicial custody of the petitioners that too after completion of investigation and submission of chargesheets/ supplementary charge-sheets. The conclusion of the trial will take long time and their presence in custody may not be necessary for further investigation. 13. In view of this, I am of the view that petitioners are entitled to grant of bail pending trial on

stringent conditions in order to allay the apprehension of the investigating agency. It is not necessary to canvass and go into the details of various other issues canvassed by learned counsel for the parties and the cases relied upon by learned counsel for the petitioners in support of their contentions. I have not expressed any opinion on the merit of the case.”

10. Coming to the facts of the present case the investigation stands concluded and the challan stands presented. Thus, there cannot be any apprehension that the petitioner(s) shall tamper with the evidence.

11. Considering the cumulative effect of all these circumstances the Court finds that petitioner-Arjun cannot be kept behind bars for an indefinite period. Consequently, petition bearing CRM-M No.49509 of 2021 titled as 'Arjun alias Muggu vs. State of Haryana' is allowed. **Petitioner-Arjun alias Muggu** is ordered to be released on bail on his furnishing bail/surety bonds subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

12. Needless to say the Trial Court shall be at liberty to impose any other condition in accordance with law. Surrender of passport by the petitioner-Arjun alias Muggu shall be a pre-condition for grant of bail. Apart from that the petitioner shall also file an undertaking before the Trial Court to the effect that he shall not change/alter/modify any documents/contact addresses/contact numbers and the formation of the companies/firms which are under investigation and are owned by the

petitioner. In case the petitioner changes his mobile number, he shall inform the agency of such change.

13. However, *qua* **petitioner-Rakesh Puri** it has come on record that there are four more cases pending against him involving similar allegations in FIR No.626 dated 25th of June, 2019, FIR No.732 dated 28th of July, 2019, FIR No.630 dated 25th of June, 2019 and FIR No.337 dated 20th of June, 2020.

14. Keeping in view the conduct of petitioner-Rakesh Puri, the Court finds that no ground is made out for granting bail in his favour. Consequently, petition bearing CRM-M No.50110 of 2021 titled as 'Rakesh Puri vs. State of Haryana' is ordered to be dismissed.

16. Ordered accordingly.

17. A copy of this order be kept on the file of other connected case.

December 01, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No