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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.49834 of 2021 (O&M)
Date of decision: 09.02.2022

Nanak Chand Tayal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for setting-aside/dispensing the condition imposed by the Additional Sessions Judge, Faridabad, vide order dated 28.01.2019 whereby the petitioner was granted conditional bail in FIR No.113 dated 04.03.2018 under Sections 420, 406, 120-B, 204 IPC and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, registered at Police Station Sector 31, Faridabad, but due to an onerous condition of furnishing surety of Rs.100 crores, the petitioner is incapable of fulfilling the condition despite the fact that he is in custody since 05.04.2018.

Brief facts relevant in this case are that while granting regular bail to the petitioner in a case primarily under Sections 420, 406 IPC, the Additional Sessions Judge, Faridabad, vide impugned order dated 28.01.2019 though, granted the concession of regular bail to the petitioner, however, has put a condition that the petitioner will furnish the details/documents of immovable property/properties valuing Rs.100

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crores in lieu of personal bonds with respect to all the cases pending before the Court along with a surety.

Counsel for the petitioner has argued that a period of about 03 years has lapsed when the impugned order dated 28.01.2019 was passed and as the petitioner could not fulfill the aforesaid condition and he is still languishing in judicial custody and as on today, his custody is about 03 years and 10 months.

Counsel for the petitioner has also submitted that as per the term, “any condition” provided under Section 439 of Cr.P.C., it has to be a reasonable condition looking into the facts and circumstances of the case, however, the condition of furnishing a surety by way of giving the details of immovable property/properties to the tune of Rs.100 crores, cannot be termed as a reasonable condition.

Counsel for the petitioner has relied upon the judgment **“Dataram Singh vs State of U.P.”**, 2018(3) SCC 22, wherein it has been held by the Hon’ble Supreme Court that while granting the bail, such onerous condition should not be imposed, which will defeat the very purpose of granting the bail.

Counsel for the State could not dispute the factual position, however, submitted that the allegations against the petitioner and his firm are of embezzlement and cheating of huge amount.

After hearing the counsel for the parties, considering the facts and circumstances of the case especially the fact that the petitioner is in custody since 05.04.2018 and even after the impugned order dated 28.01.2019 when he was granted regular bail, he is still continuing in judicial custody for more than 03 years as he is unable to meet the

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condition laid down by the Additional Sessions Judge, Faridabad, in the impugned order dated 28.01.2019.

Therefore, it is apparent that the very purpose of granting bail to the petitioner due to onerous condition laid down in the impugned order has been defeated.

Accordingly, the present petition is allowed to the extent that the condition laid down in the impugned order dated 28.01.2019, directing the petitioner to furnish the details/documents of immovable property/properties valuing Rs.100 crores in lieu of personal bonds, is dispensed with.

The petitioner is directed to be released on bail subject to furnishing 02 sureties/bonds to the satisfaction of the trial Court.

Disposed of.

The Director Judicial Academy, Chandigarh, is directed to seek an explanation from the concerned Additional Sessions Judge, Faridabad, under what interpretation of law or relying upon which judgment of this Court or the Hon'ble Supreme Court, he has put such onerous condition.

The concerned Officer will go through at least 05 judgments of this Court or the Hon'ble Supreme Court on the subject matter and will furnish a paper within a period of 02 months from today, which will be circulated to all Judicial Officer in States of Haryana, Punjab and U.T., Chandigarh, on e-mail.

09.02.2022

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(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No