

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

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**Date of decision: 21.03.2022
CRM-M-50794-2021 (O&M)**

ROHIT

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-4088-2022 (O&M)

NITIN GUPTA

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Akashdeep Singh, Advocate
for the petitioner In CRM-M-50794-2021.

Mr. Raj Kumar Gupta, Advocate
for the petitioner In CRM-M-4088-2022.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

By means of this common order, the above-mentioned two petitions shall stand disposed off as both the petitions arise out of same FIR.

The instant petitions have been filed under Section 439 CrPC for grant of regular bail to the petitioners in case FIR No.384 dated 30.10.2021 under Sections 120-B, 420, 467, 468 and 471 of the IPC (Section 201 IPC added later on) registered at Police Station Arya Nagar, District Rohtak.

Learned counsel for the petitioners contends that the petitioners have

been nominated as an accused on the basis of disclosure made by Joginder Balhara. It is contended that as per the investigation concluded by the Police, the cheques in question were allegedly cloned by two persons namely Gaurav and Dharmendra from whom the cheques were transferred in favour of Brij Mohan, Suresh Tyagi and Parveen Kumar therefrom they were further transferred to one Vikas and then to Rohit (petitioner in CRM-M-50794-2021) and from Rohit to Nitin (petitioner in CRM-M-4088-2022) and then handed over to Joginder Balhara, who is alleged to have presented the cheque for encashment in the bank account. It is undisputed that upon the bank officials getting suspicious and inquiry being made, the amount in question was never credited to the said account. Learned counsel for the petitioners also contend that no recovery has been effected from the petitioners and at best the case as may be made out against the petitioners is that of an attempt at commission of the offence. It is further urged that even the said aspect would be subject matter of trial inasmuch as the possibility of the petitioners dealing with said cheque under a bona fide impression cannot be ruled out. It is also pointed out even though the final report has been filed on December 2021, however, the FSL report has not yet been obtained by the Police. Charge has also not been framed. It is a Magisterial trial and shall take long time to conclude.

Mr. Kanwar Sanjiv Kumar, learned AAG Haryana controverts the averments raised by the petitioners by submitting that the FSL report has already been obtained and upon conclusion of the investigation, the participation of the petitioners was found to be made out. Accordingly, they were nominated as an accused in the final report. He alleges that the petitioners are part of a gang which is involved in cloning of cheques and duping people of their hard-earned money. He, however, could not dispute the fact that there is no other case that has been registered against the petitioners. Besides, it is not controverted that the cloning of

the cheque is primarily alleged to have been committed by Gaurav and Dharmendra. Further, it is also submitted that the petitioners are in custody since 01st November, 2021 and charges have not been framed so far.

I have considered the arguments advanced by the counsel for the parties.

Taking into account the fact that the petitioners have been in custody since 01.11.2021 and are not required for the purposes of investigation since the final report under Section 173 CrPC already stands filed. The petitioners are arraigned as accused on the disclosure made by the co-accused. No recovery has been effected from the petitioners. The case involves Magisterial trial and the same is yet to commence. Further, the presentation of the cheque by Joginder Balhara did not fructify as no amount in question was transferred as a result of the adventure undertaken by Joginder Balhara. In view of the above, I deem it appropriate to enlarge the petitioners on bail.

Accordingly, the present petitions are allowed and the petitioners are admitted on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioners shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

March 21, 2022

S.Sharma(syr)

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