

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(210)

CRM-M-46478-2022

Date of Decision : November 21, 2022

Ankit Singh

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Akash Krishna, Advocate,
Mr. Jatin Raheja, Advocate and
Mr. Ayush Gupta, Advocate, for the petitioner.

Mr. R.S. Budhwar, Addl. A.G., Haryana.

Mr. Rishab Raj Jain, Advocate, for the complainant.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.27 dated 08.05.2021 registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 and Section 66 and 66-D of the I.T Act at Police Station Cyber Crime Gurugram, District Gurugram.

Learned counsel for the petitioner argues that the petitioner was not named in the FIR but has been roped in the present case on the basis of the disclosure statement of one of the co-accused namely Shivam Singh.

Learned counsel for the petitioner submits that only allegation against the petitioner is that the amount belonging to the complainant, which was

transferred to company namely M/s Bytie Enterprises operated by co-accused Shivam Singh, was opened by the petitioner after forging the documents. Learned counsel for the petitioner further submits that during the investigation, the Investigating Agency has recovered a sum of Rs.1.5 lacs on the disclosure statement of the petitioner though, the fact whether the said money is part of siphoned money or not, is yet to be proved on record. Learned counsel for the petitioner further submits that as the investigation qua the allegation relating to the petitioner is already over and the challan has been submitted, the petitioner, who is behind the bars for the last about 18 months, be granted the concession of regular bail as, the trial is likely to take some time before it concludes as even the charges are yet to be framed and 22 witnesses who have been cited are to be examined in case the charges are framed against the petitioner.

Notice of motion.

Mr. R.S. Budhwar, learned Addl. A.G., Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and Mr. Rishab Raj Jain, Advocate, who is also present in the Court, accepts notice on behalf of the complainant.

Learned counsel for the respondent-State submits that though, challan has been presented keeping in view the investigation undertaken so far but all the accused are yet to be arrested, hence, the prayer of the petitioner for the grant of regular bail, may kindly be declined.

Learned counsel appearing on behalf of the complainant submits that the complainant has suffered loss to the tune of Rs.4 crores and even in the investigation undertaken so far, the total money has not been accounted for which poorly reflects upon efforts being put in by the

Investigating Agency in conducting the investigation. Learned counsel for the complainant further submits that it is due to the in action on the part of the Investigating Agency, the accused, against whom, the evidence has already come on record, have not been arrested and no serious efforts have been made to arrest those persons and in case, the petitioner is also extended the concession of regular bail, the same will effect not only the further investigation but even the trial also. Learned counsel for the complainant further submits that the petitioner is a habitual offender as there are allegations of the similar nature against the petitioner in Uttar Pradesh.

Learned counsel for the petitioner submits that the second FIR was registered when the petitioner was already behind bars in the present case and that only relates to consumer dispute and not with regard to similar allegations being alleged in the present FIR.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

While considering the claim of the petitioner for the grant of bail, the only precaution which needs to be taken is whether, in case the prayer of the petitioner for the grant of regular bail is accepted, the same will have effect upon the trial or not i.e. whether the petitioner will influence the trial or not. The investigation qua the allegations being alleged against the petitioner is already over and the challan has been presented. The allegation which the Investigating Agency is putting forward for the consideration of the competent Court of law, to be converted into charges, is that the petitioner helped co-accused Shivam Singh to open the company under the name and style of M/s Bytie Enterprises, wherein, the money siphoned from the account of the petitioner was transferred and later on was

disbursed to various other accused. As of now, the company i.e. M/s Bytie Enterprises is registered in the name of co-accused Shivam Singh. It is co-accused Shivam Singh who has disclosed that the said company was opened by the petitioner after forging his signature. These allegations are yet to be proved against the petitioner. Out of the total embezzlement of Rs. 4 crores, even after investigation, allegation against the petitioner is that he is beneficiary of Rs.4 lacs out of which, Rs.1.5 already stands recovered during the investigation. That being so, coupled with the fact that the petitioner is already behind the bars for the last 18 months and the charges are yet to be framed and there are 22 witnesses, who have been cited to be examined, in case charges are framed against the petitioner, it is very likely that the trial is going to take some time before it concludes.

Nothing has come on record as of now that in case the benefit of regular bail is extended to the petitioner, he will misuse the same in any manner so as to flee the trial or influence the same or the witnesses to be examined during the trial.

Rather learned counsel for the petitioner has assured this Court that in case the benefit of regular bail is extended to the petitioner, he will behave in a manner required under law and will not influence the witnesses or the trial in any manner. Even in default of the said undertaking, the Investigating Agency or the complainant is also not without any remedy and can approach this Court in case of any violation of the terms and conditions of the bail by the petitioner for the review of this order.

Keeping in view the above, the petitioner has made out the case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

This order is being passed only qua the allegations being alleged against the petitioner and will not reflect as opinion of this Court on the merits of the case qua the other accused in any manner.

From the facts, which have come on record though, the present petition is being disposed of qua the prayer of the petitioner for bail but certain observations need to be extended qua the investigation being undertaken by the police. Investigation undertaken so far in this case is not posing confidence in the Court that all the efforts are being made to investigate the allegations being alleged by the complainant. Though the FIR was registered on 08.05.2021, even as per the Investigating Agency, the main accused, are yet to be arrested, who are stated to be out of country.

Before recording any observation qua the manner in which the Investigating Agency is conducting investigation, one last opportunity is given to the Investigating Agency to put all efforts so that the allegations being alleged by the complainant are enquired in a proper and effective manner and are taken to the logical end so as to find the culprits and bring them before the competent Court of law.

Learned counsel for the respondent-State requests four weeks' time to do the needful and inform this Court about the efforts made so that, in case any order needs to be passed with regard to the conduct of the investigation, the same could be passed. State is directed to place on record status report before Registry.

To come up for consideration on the aspect of investigation being undertaken, on 20.12.2022. Registry is directed to list an IOIN on 20.12.2022 for this purpose.

November 21, 2022

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No