

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.235

CRM-M-50978-2021

Date of decision: 28.02.2022

Virender Sharma

....Petitioner

Versus

State of U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Jai Vir Yadav, Senior Advocate with
Mr. Harshvardhan Ranga, Advocate
for the petitioner.

Mr. A.M. Punchhi, P.P. U.T., Chandigarh with
Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

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DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.99 dated 27.10.2020, registered under Sections 420, 468, 471 120-B IPC (Section 201 IPC added later on) at Police Station North, Chandigarh.

The petitioner, who is a Company Secretary by profession, is being prosecuted for having given a false certificate with regard to the share valuation of a company and that too in the name of another chartered accountant which certificate was used by the promoters of the company to fraudulently allure innocent investors.

Learned Senior counsel appearing for the petitioner submits that the petitioner has been falsely implicated in this case; the petitioner is in custody since 19.01.2021; the petitioner is on bail in the other two criminal cases that he faces; in fact, separate petitions for quashing of the afore two FIRs, on the basis of compromise, have been filed and are pending before this Court; co-accused Major Sanjeev Bhatia, who was the promoter of the Company in question had earlier approached this Court

through CRM-M-42067-2020 – Major Sanjeev Bhatia vs. Union Territory of Chandigarh and was granted regular bail; primarily the case against the petitioner is based on documentary evidence; the investigation in the case is complete; the petitioner has always cooperated with the investigation leading to the recovery of the CPU allegedly used in the making of the fraudulent/forged certificate and that the petitioner's trial in which none of the prosecution witnesses have been examined will take a long time to conclude.

Learned counsel appearing for U.T., Chandigarh oppose the grant of bail to the petitioner on the ground that he is habitual offender being involved in two other criminal cases of similar nature and that if he is released on bail he may indulge in similar activities.

The petitioner is in custody for the last over 01 year and 01 month; in the other two other criminal cases being faced by the petitioner he has already been granted bail; investigation in the case is complete; co-accused Sanjeev Bhatia, who was the alleged beneficiary of the alleged forgery by the petitioner of a false share valuation has been granted regular bail by this Court and that the petitioner's trial in which so far none of the prosecution witnesses have been examined is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, U.T., Chandigarh, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

There is yet another aspect in the matter. On 03.02.2022, this Court had passed the following order:-

“The matter has been taken up through video conferencing.

On 02.02.2022 this Court passed the following order:-

“Status report filed by UT, Chandigarh is ordered to be taken on record.

In the status report filed by UT. Chandigarh, it has inter-alia been stated that Anup Nargas and Sanjeev Bhatia had lured the complainant to invest Rs.50 lakhs in a company floated by them. Such allurements were made inter-alia by showing the complainant a forged share valuation certificate of the company, in the forging of which Anup Nargas had also played a role. After the complainant made the investment of Rs.50 lakhs. both Anup Nargas and Sanjeev Bhatia embezzled the same.

Anup Nargas sought anticipatory bail from the Sessions Court, UT Chandigarh which was opposed by the prosecution inter-alia on the ground that he had played a vital role in the forging of the company's share valuation certificate as also that he, along with Sanjeev Bhatia, had defrauded several persons which included the complainant and as on date, through their fraudulent dealings, had embezzled over Rs.344 lakhs. The Sessions Court at U.T. Chandigarh was of the opinion that Anup Nargas's custodial interrogation was necessary and therefore, through order dated 13.11.2020 dismissed his petition for anticipatory bail. Anup Nargas then approached this Court but this Court too was of the opinion that Anup Nargas's custodial interrogation was required and therefore, through order dated 22.12.2020, rejected his plea for the grant of anticipatory bail. He then knocked the doors of the Supreme Court which too, on 30.12.2020 dismissed his Special Leave Petition with a further direction to him to surrender within 2 weeks and then apply for regular bail.

In view of the above, the Sessions Court, UT Chandigarh, this Court as also the Supreme Court were concurrently of the view that Anup Nargas's custodial interrogation was necessary. However, after the dismissal of his Special Leave Petition by the Supreme Court, instead of surrendering, on 04.01.2021, Anup Nargas made a representation to the then Superintendent of Police, Economic Offences Wing. UT, Chandigarh CRM-M-50978-2021 for short the SP) reiterating therein the stand taken by him before the afore referred 3 Courts and the SP made a noting on such representation directing the Deputy Superintendent of Police to look into the matter with a further direction to the Investigating Officer to join Anup Nargas in investigation. As a result of such noting, in a non-bailable offence, the SP virtually granted anticipatory bail to Anup Nargas which had concurrently been denied to him by the Sessions Court, UT Chandigarh, this Court as also the Supreme Court on the ground that his custodial interrogation was necessary.

As a result of the afore noting by the SP. for over one year and one month, the police has not arrested Anup Nargas while similarly placed co accused are in custody and their regular bails are also being vehemently opposed by the State.

To throw light on the above, DGP. UT, Chandigarh is directed to appear before this Court on the adjourned date.

Adjourned to 03.02.2022.

To be taken up at 10:00 a.m. "

In pursuance to the afore quoted order, Mr. Praveer Ranjan, DGP, UT, Chandigarh has appeared before this Court through Video

Conferencing and acknowledges that the issue raised through the afore quoted order is serious. Therefore and in the light of the reasons contained in the afore quoted order, DGP, UT, Chandigarh is directed to hold a preliminary fact finding enquiry into the circumstances with regard to the making of the noting dated 04.01.2021 by the Superintendent of Police, Economic Offences Wing, UT, Chandigarh on Anup Nargas's representation as also go into the discriminatory consequences which flowed from such noting for over a year. The enquiry report be filed before the adjourned date.

Adjourned to 17.02.2022.

To be taken up at 10:00 a.m.

On the adjourned date the petitioner – Virender Sharma's plea for regular bail shall also be considered.”

In terms of the afore-quoted order, a preliminary fact finding enquiry report by the DGP, Chandigarh has been filed in a sealed cover which was opened in the presence of the parties. The same is ordered to be taken on record.

Before any further orders can be passed in the afore issue, learned counsel appearing for the U.T., Chandigarh is directed to produce the relevant procedure/rules as to who are the disciplinary authorities in the case of the then SP EOW – Mrs. Neha Yadav, the then DSP EOW – Sh. Sukhraj Katewa and the IO of the case – SI Harbans Singh.

For the above purpose, let matter be listed before this Court on 25.03.2022.

February 28, 2022

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(DEEPAK SIBAL)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No