

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

210(2)

Decided on : 21.10.2022

I CRM-M-47909-2022(O&M)

Subhash Chander

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

II CRM-M-47956-2022(O&M)

Ramesh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Keshav Pratap Singh, Advocate
for the petitioner in CRM-M-47909-2022.

Mr Arav Gupta, Advocate
for the petitioner in CRM-M-47956-2022.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Prashant Sethi, Advocate for the complainant.

SANJAY VASHISTH, J. (Oral)

By this common order, I propose to dispose of aforementioned two petitions, which have been filed by Subhash Chander and Ramesh, respectively under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 11 dated 06.01.2016 under Section 420, 467, 468, 471 and 120-B IPC (Section 411 IPC added later on), registered at Police Station Hansi City, District Hisar.

At the very outset, learned counsel for the petitioner(s) refers to order dated 17.10.2022 passed by this Court in CRM-M-46720-2022

whereby regular bail was granted to similarly situated persons.

Said order dated 17.10.2022 passed by this Court, says as under:

“The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioners –Rajpati and Sunita, who have been booked for having committed the offence punishable under Sections 420, 467, 468, 471 and 120-B IPC, in FIR No. 11 dated 06.01.2016, registered at Police Station Hansi City, District Hisar.

Learned counsel for the petitioners submits that main allegation levelled against the petitioners is of preparing a forged power of attorney regarding the property of the victims, namely, Dheeraj Dewan and Amit and thereafter, sale deed was executed in the name of Rajpati (petitioner No. 1) who is mother of Sunita (petitioner No. 2). Counsel further submits that after registration of the FIR, petitioners were arrested and are in custody since 31.08.2022. He further submits that the matter has been now compromised between the parties vide compromise dated 17.02.2017 and on the basis of said compromise, a quashing petition i.e. CRM-M-42991-2022 has already been filed before this Court, which is pending consideration for 31.01.2023. Factum of compromise has also been confirmed by the counsel for the complainant by making a submission at par that both the victims, namely, Dheeraj Dewan and Amit have

already signed the compromise deed dated 17.02.2017 before the Civil Court in the proceedings of civil case between the parties regarding the issue of power of attorney and sale deed executed thereupon as reflected in the order sheet dated 16.07.2018 (Annexure P-2) passed by Learned Additional Civil judge (Senior Division), Hansi. Learned counsel for the petitioners further submits that matter in the hand is triable by the Court of learned Magistrate and there is no possibility of early conclusion of the trial. He further submits that no other case is pending or registered against the petitioners. Thus, prays, regular bail for the petitioners.

Per contra, while opposing the prayer made by learned counsel for the petitioners, learned State counsel submits that petitioners are involved in serious offence of cheating and fraud, so irrespective of the compromise between the parties (if any), concessional benefits such like bail should not be extended to them. He further submits that matter is still under investigation and release of the petitioners on bail may affect the investigation process.

Upon this, learned counsel for the petitioners submits that since the case is based upon the documentary evidence, said objection of learned State counsel is not sustainable.

However, on being asked by the Court, learned State counsel, on instructions from ASI Rakesh,

submits that petitioners are not involved in any other case of similar nature.

On the other hand, learned counsel for the complainant makes a submission before the Court that the parties have infact settled their dispute and a compromise petition i.e. CRM-M-42991-2022 has duly been filed before this Court which is now fixed for 31.01.2023. Moreover, states that he has no objection if petitioners are ordered to be released on bail.

I have considered the submissions of both the sides, and perused the material available on record with their able assistance.

In view of the factual aspects coupled with the reasons that the case is triable by the Court of learned Magistrate and there is no possibility of early conclusion of the trial, no purpose would be served by keeping the petitioners inside jail. Therefore, I deem it appropriate to enlarge the concession of bail to the petitioners.

*In view of the aforementioned facts and circumstances of the case and the submissions recorded hereabove, present petition is **allowed**. Petitioners are ordered to be released on bail in this case, subject to their furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.*

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 here-in-above 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 evidence available on record.

However, it is made clear that in future if the petitioners are found involved in any other case of similar nature, respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioners in present case.”

Per contra, while opposing the regular bail to the petitioner(s), learned State counsel submits that petitioner(s) is involved in serious offence of cheating and fraud, therefore, they do not deserve the concession of bail. However, he does not dispute the fact that co-accused, namely, Rajpati and Sunita, have already been granted concession of regular bail by this Court.

I have considered the submissions of both the sides, and perused the material available on record with their able assistance.

In view of the fact that in the present case, petitioner- **Subhash Chander** in **CRM-M-47909-2022** is inside jail since 01.09.2022 and petitioner- **Ramesh** in **CRM-M-47956-2022** is inside jail since 31.08.2022 and also as per reasoning and the factors recorded in the order dated 17.10.2022 passed by this Court in the bail petition of similarly situated persons, no purpose would be served by keeping the petitioner(s) inside jail. Therefore, I deem it appropriate to enlarge the concession of bail to the petitioner(s).

In view of the aforementioned facts and circumstances of the case and the submissions recorded hereabove, present petition is **allowed**. Petitioner(s) is ordered to be released on bail in this case, subject to their furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner(s) will not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made here-in-above 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 evidence available on record.

However, it is made clear that in future if the petitioner(s) is found involved in any other case of similar nature, respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioner(s) in present case.

Both the petitions are disposed of in the above terms.

(SANJAY VASHISTH)
JUDGE

October 21, 2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No