

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53051-2021

Date of decision: 31.08.2022

Shree Ram Aggarwal

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. R.S.Rai, Sr. Advocate with
Mr. Anurag Arora, Advocate and
Mr. Farhad Kohli, Advocate, for the petitioner.

Mr. Gagandeep Singh Chhina, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case
FIR No.10 dated 06.01.2021, registered at Police Station Sector 9-A,
District Gurugram, under Sections 467, 468, 471 and 420 read with
Section 120-B IPC.

Reply dated 05.02.2022 of the Assistant Commissioner of
Police, Traffic West, Gurugram, filed on behalf of the respondent-State
in the Registry, is taken on record.

Learned Senior Counsel for the petitioner would argue that
irrespective of the allegations contained in the FIR, the vital fact that
needs consideration is that at one stage, a compromise had been effected
between the complainant(s) and the petitioner, and that the petitioner had
issued two cheques bearing No.000041 dated 06.02.2020, amounting to
Rs.25 lakh, and No.000039 dated 10.02.2020, amounting to Rs.20 lakh,
to discharge his liability towards the complainant(s); that complainant-
Rajiv Yadav, filed a complaint dated 15.07.2020 under Section 138 of the

Negotiable Instruments Act, 1881, averring the dishonour of the said cheques and that in the said complaint, the petitioner stands summoned.

Learned Senior Counsel further contends that the FIR registered on 06.01.2021 i.e. at a later point of time than the complaint under Section 138 of the N.I. Act, would lose its legitimacy and that if at all, the remedy, available to the complainant, is to invoke the terms of the settlement arrived at between the parties. In this regard, he relies upon the judgment of the Hon'ble Supreme Court in Gimpex Private Ltd. Vs. Manoj Goel (2021) SCC Online SC 925.

It is yet further contended that the challan has already been presented; that the petitioner has been in custody since 13.07.2021; that the prosecution witnesses are yet to be examined. On this premise, learned Senior counsel prays for the grant of bail to the petitioner.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that dispute between the petitioner and the complainant(s) is with regard to three properties i.e. one situate at Delhi and two others at Gurugram; that the petitioner had a criminal intent right from beginning to commit a fraud upon the complainant and which is why he had usurped the complainant(s) hard earned money regarding three properties aforesaid. Still further, it is submitted that dishonour of the cheques issued by the petitioner would only multiple the petitioner's criminal intent.

I have heard the learned counsel for the parties.

The contention of the petitioner regarding parallel proceedings cannot be gone into by this Court in the present proceedings as the issue only concerns the grant of regular bail. So far as the

proceedings under Section 138 of the N.I. Act, are concerned, the law would take its own course. Invocation of the terms of settlement, if any, as pleaded by the petitioner, is also of no relevance in the present petition. However, the fact remains the challan has already been presented. All the offences are triable by the Magistrate Ist Class. The petitioner has been in custody since 13.07.2021. The prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

31.08.2022

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No