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

CRM-M-51341-2021

Date of decision : 01.02.2022

Shalinder Kumar Sethi @ Tony

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. C.M. Munjal, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.98 dated 10.06.2019 registered under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Guruharsahai, District Ferozepur.

In the present case, the FIR has been registered on the complaint of one Barinderpal Singh, who had alleged that in the year 2015, the petitioner had taken Rs.6 lacs in cash, in the presence of the witnesses, on the pretext of getting a Government Job for the son of the

complainant namely Sukhminder Singh. The petitioner had assured that the son of the complainant will get a Government job failing which, he would return the money. However, since, after a considerable period of time, neither the job was procured for the son of the complainant nor the money was returned. The complainant started pursuing the petitioner for the same but then the petitioner provided a forged appointment letter to the complainant and thus, the petitioner had committed a fraud of an amount of Rs.6 lacs by promising the complainant that he would get a Government job for the son of the complainant. The matter was investigated and it had been found that there were other persons also who had been cheated by the petitioner in collusion with one Lakhbir Singh.

Learned counsel for the petitioner has submitted that in the present case, even wife of the petitioner has been involved in the present case and she had approached this High Court seeking grant of concession of anticipatory bail and vide order dated 25.08.2021 passed by the Coordinate Bench of this Court, the wife of the petitioner was directed to deposit an amount of Rs.5 lacs with the trial Court and after the said amount of Rs.5 lacs had been deposited by the wife of the petitioner, she was granted the benefit of anticipatory bail in the present FIR and for the said purpose, reference has been made to the order dated 03.11.2021 (Annexure P-1) passed in CRM-M-20241-2021. It has further been submitted that the petitioner has been in custody since 21.01.2021 and there are as many as 15 witnesses, none of whom have been examined as yet and the matter is triable by Magistrate and even the charges, in the

present case, have not been framed and thus, the conclusion of the trial is likely to take time, moreso, in view of the present COVID-19 pandemic. It is argued that some of the complainants have even initiated the proceedings under Section 138 of the Negotiable Instruments Act, 1881, and thus, the present FIR would result in double jeopardy qua the petitioner.

Learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that in the present case, there are five complainants and the petitioner is also involved in five other cases and thus, does not deserves the concession of regular bail and even the money, which had been paid to the petitioner, has not been recovered from the petitioner till today. The custody period, however, has not been disputed by the learned State Counsel.

Learned counsel for the petitioner in rebuttal to the said argument has relied upon the judgment of the Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in

which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Learned counsel for the petitioner has further argued that there is nothing to show that the petitioner would abscond from the country and also submitted that the petitioner undertakes to appear on each and every date before the trial Court, if released on bail.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not in dispute that wife of the petitioner had also been involved in the present FIR and for the purpose of anticipatory bail, she has deposited a sum of Rs.5 lacs in the trial Court and has been granted the concession of anticipatory bail by a Coordinate Bench of this Court vide order dated 03.11.2021 passed in CRM-M-20241-2021. The petitioner has been in custody since 21.01.2021 and there are as many as 15 witnesses, none of whom have been examined till date and the conclusion of the trial is likely to take time, moreso, in view of the present COVID-19 pandemic. The present case is triable by Magistrate, thus, no useful purpose would be served by keeping the petitioner in further incarceration.

Keeping in view the abovesaid facts and circumstances, moreso, the custody period of the petitioner and also the fact that investigation in the present case is over and the entire dispute is based on the documentary evidence and also in view of law laid down in ***Maulana Mohd. Amir Rashadi's case*** (Supra), the present petition for regular bail

is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

01.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No