

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

CRM-M-48963-2022 (O&M)

Date of decision: 31.10.2022

Sandeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Jitender K. Sehrawat, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 578 dated 04.10.2018, under Sections 420, 120-B, 34 of the IPC and Sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 registered at Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioner has submitted that the new ground for filing the present petition is that the petitioner is in judicial custody for the last 02 years, 11 months and 25 days and since the trial is not proceeding, the conclusion of trial may take a long time.

Learned counsel for the petitioner has relied upon a composite order dated 09.09.2022 passed in CRM-M Nos. 5627 & 25161 of 2021, vide which the coordinate Bench has granted the concession of regular bail to co-accused Kuldeep and Ajay Pal @ Dilbag. The operative part of the order

reads as under:

“Case of the prosecution is that FIR has been registered on the complaint of Vikram and 99 other persons on the allegation that Pardeep Sihag, Ajay Beniwal, Rajesh and Kuldeep (petitioner in CRM-M-5627- 2021) have deceived them on the pretext of doubling their money within a short span of time. Huge amount was invested in RTPS Life Care Private Limited, a chit fund company, through RTGS in account No.50457866262 with Allahabad Bank, Hisar Branch on the allurement of the accused.

Counsel for the petitioner(s) has contended that Kuldeep is in custody since 22.06.2019 and accused- Ajay Pal is behind bars since 24.04.2019 and have spent more than 03 years in custody. It has been submitted that although charge has been framed and some prosecution witnesses were examined, but on an application filed by the prosecution under Section 319 of Cr.P.C., Master Vijay Singh and Satish Beniwal have been summoned as an additional accused by the trial court vide order dated 26.05.2022. A submission has been made that with the summoning of additional accused, the trial is likely to start afresh and the prosecution has to examine 168 witnesses. Counsel submits that although the accused were involved in two other criminal cases with similar allegations, but they are not named in those FIRs and have been released on bail. Counsel asserts that keeping in view of the period of custody of the petitioners, they deserve to be enlarged on bail. Counsel for the petitioner has taken the Court through the provisions of the Prize Chits and Money Circulation Scheme (Banning) Act as well as that of the IPC to submit that in case, petitioners are convicted, the maximum sentence that can be imposed by the trial court is 07 years.

Per contra, learned State counsel upon instructions from ASI Birbal, and with the assistance of counsel for complainant, has opposed the petitions and has submitted that the petitioners in connivance with each other, have swindled innocent public of more than Rs.59 crores. As per her instructions, petitioners are the master mind behind the scam. She, however, could not dispute the stage of the trial. An apprehension has been expressed that the accused are a flight risk and may abscond.

Heard counsel for the parties.

It has been held by the Supreme Court in **Union of India versus K.A. Najeed 2021 (3) SCC 713** that long custody of the accused coupled with remote possibility of timely conclusion of trial, makes it obligatory on the Courts to release the accused on bail. In **Paresh Nathalal Chauhan versus State of Gujarat and others, 2022 (90) GST 685**, wherein accused allegedly evaded GST to the extent of Rs.64 crores, the accused was ordered to be released on bail after he had undergone almost 50 % of the total sentence.

Petitioners have undergone a sentence of 38 months and 40 months, respectively. Considering the fact that the offences entail a maximum sentence of seven years and the petitioners have spent almost half the sentence in incarceration, this Court is prima facie of the view that the petitioners deserve to be released on bail. The apprehension of the State can be taken care of by imposing stringent conditions.

Without adverting to the merits or de-merits of the arguments addressed by counsel for the parties, petitions are allowed. Both the petitioners are ordered to be released on bail on furnishing heavy bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate

concerned.

However, while being released on bail, this Court deems it appropriate to impose the following conditions while granting liberty to the Trial Court to impose any other condition:-

- (i) the petitioners will surrender their passport before the trial court and in case, they do not possess a passport, they will file an affidavit to this effect with an undertaking that during the pendency of the trial, they will not apply for a passport;
- (ii) the petitioners will appear before the police station concerned on the first Monday of every month at 11.00 AM; and
- (iii) the petitioners will provide their mobile numbers to the SHO concerned, which they will keep activated throughout. The SHO would make random calls on their mobiles and keep a check on their movement.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.”

Learned counsel for the petitioner has further submitted that in fact the aforesaid two accused, who have been granted the regular bail, were managing the affairs of the company, whereas the present petitioner was only an employee there.

Learned counsel for the petitioner has further submitted that the petitioner is not involved in any other cases under Section 420 IPC and he is in judicial custody for the last 02 years, 11 months and 25 days.

It is further submitted that an application under Section 319 Cr.P.C., moved by the prosecution, has been allowed and some more

persons have been added as additional accused, therefore, the conclusion of trial is likely to take a long time as only four prosecution witnesses have been examined so far.

Learned State counsel, on instructions from ASI Birbal and on the basis of the custody certificate filed today in Court, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the petitioner is in long judicial custody; aforesaid two co-accused have already been granted the concession of regular bail by this Court and also in view of the fact that conclusion of trial may take a long time, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

31.10.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No