

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55397-2022 (O&M)
Date of Decision: 05.12.2022

Vipin

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Dr. Pankaj Nanhera, Advocate, for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

CRM-45817-2022

For the reasons recorded in the application, the same is allowed
subject to all just exceptions.

Main case

The present is a second petition filed under Section 437(6) read
with Section 439 and Section 482 of the Code of Criminal Procedure for the
grant of regular bail to the petitioner in FIR No. 352 dated 25.06.2016, under
Sections 420, 467, 468, 471 and 201 IPC, registered at Police Station
Samalkha, Panipat.

It has been submitted by learned counsel for the petitioner that
this is a second successive bail petition filed by the petitioner and earlier he
had filed CRM-M-4907-2022 which was dismissed by this Court on

14.03.2022. He submitted that the petitioner is in custody from 19.07.2021 which is almost 1 year and 5 months and after the dismissal of the aforesaid first bail petition the trial Court had adjourned the case about 23 times so that the prosecution witnesses can be examined and for a number of times summons were issued but strangely enough no prosecution witness has been examined till date except for the examination of the complainant only. He submitted that the allegations in the present case are that the petitioner had purchased oil from another company and had issued C-Forms for the purpose of Sales Tax Department and the allegations against the petitioner are that the Forms were forged and consequently he was arrested. He further submitted that the entire case is based upon the documents including C-Form regarding which forgery has been alleged. Therefore, the official witnesses who are in possession of the documents and all other relevant material were the material witnesses but there is no justification as to why the prosecution has absented itself and has not come forward for deposing before the trial Court despite the fact that even after the earlier decision of the bail petition the matter has been adjourned 23 times. During the course of arguments learned counsel for the petitioner supplied photocopies of the zimini orders passed by the trial Court. Photocopies of the zimini orders are hereby taken on record as marked 'X'. He submitted that in view of the aforesaid facts and circumstances, the successive bail petition filed by the petitioner is maintainable. He further submitted that it is a case which is otherwise triable by Magistrate and the entire case is based upon the documentary evidence. No recovery is to be effected from the petitioner. He also submitted that after looking at the conduct of the prosecution where

they are deliberately not presenting themselves for deposing before the trial Court, the trial of the case may take further long time and the petitioner has already faced incarceration for one year and five months and therefore, he may be considered for grant of regular bail.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that it is correct that the petitioner is in custody for 1 year and 5 months and only complainant has been examined but no official witness has been examined till date. On a query being raised to the learned State counsel as to what is the justification for a large number of adjournments i.e. 23 adjournments after the dismissal of the earlier bail petition no prosecution witness has been examined, he was not able to justify the same. He has, however, opposed the grant of bail to the petitioner on the ground that the petitioner has made a forgery of C-Forms amounting to Rs. 1.10 crore which he has actually mis-appropriated and therefore, he does not deserve the concession of regular bail.

I have heard learned counsel for the parties.

Earlier the petitioner had filed a bail petition before this Court which was dismissed on 14.03.2022 but the learned counsel for the petitioner has placed on record the zimini orders passed after the dismissal of the bail petition which are about 23 in number whereby the trial Court has repeatedly adjourned the case and it appears from the orders that the delay has been caused at the hands of prosecution witnesses since they did not come forward for deposing with a result that the petitioner has faced incarceration for one year and five months. The present is a case which is triable by Magistrate. During the course of arguments learned counsel for

the petitioner also submitted that it is a matter of trial by way of adducing evidence as to whether the C-Forms were forged or not and considering the conduct of the prosecution and the delay in the trial, he may be considered for the grant of regular bail.

This Court is of the view that the argument raised by the learned counsel for the petitioner does carry weight and has got force. Furthermore, it is not the case of the State that in case the petitioner is released on bail, then he may abscond from justice or he may influence any witness especially in view of the fact that the complainant has already been examined.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

05.12.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No