

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-55742-2022 (O & M)****Date of decision: 07.12.2022**

Sanjay Kumar

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Harish Goyal, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.111 dated 17.02.2022 under Sections 420,406, 467, 468, 471, 120-B IPC registered at Police Station Palla, District Faridabad.

2. The present FIR came to be registered at the instance of one Amol Mandal who stated that his relative Mukesh Kumar had got him introduced to another person stating that the said person had contacts with influential people and could provide him a job. The person who was introduced to him (complainant) was Sanjay Kumar (the present petitioner). The petitioner-Sanjay Kumar called him on the phone and told him that he could provide a job to him on payment of Rs.4,00,000/-. An amount of Rs.2,25,000/- in cash was paid to the petitioner in the presence of Mukesh Kumar and Rakhi. A further sum of Rs.1,60,000/- was paid through online mode into the bank account of the petitioner. Despite making the payment,

the petitioner kept on putting him off either on one pretext or the other. Thereafter, he received a medical examination letter and appointment letter from the Indian Railways through registered post. On verification, he found that the said documents were fake. In this way, the petitioner had cheated him (the complainant) for an amount of Rs.3,85,000/- on the pretext of getting him employed.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The prosecution version is hard to believe as the complainant is stated to be a labourer. The challan already stands presented and since the petitioner is in custody since 12.08.2022 and none of the 12 prosecution witnesses have been examined so far, the further incarceration of the petitioner is not required.

4. The learned counsel for the State, on the other hand, contends that the petitioner has cheated a poor person for a huge sum of money. A sum of Rs.75,000/- has been recovered from the petitioner, which clearly establishes the commission of offence. He contends that the allegations against the petitioner do not entitle him to the grant of concession of bail. He, however, does not dispute the fact that none of the 12 prosecution witnesses has been examined so far and the petitioner is a first-time offender.

5. I have heard the learned counsel for the parties.

6. The allegations against the petitioner shall be established during the course of Trial. He is in custody since 12.08.2022 and none of 12 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Even otherwise, the petitioner is a first-time offender and the case is triable by a Magistrate.

This Court in case bearing 'CRM-M-24033- 2021(O&M) titled as Maninder

Decided on 31.08.2022’ has held that in cases triable by the Magistrate unless there are serious allegations of the accused absconding from trial, or tampering with the evidence, bail should only be declined in exceptional circumstances. In the present case, nothing exceptional has been pointed out as to why bail ought to be declined to the petitioner. Neither has the State expressed any serious apprehension of either the petitioner being a flight risk or likely to tamper with the evidence if he was granted the concession of bail.

7. Keeping in view the afore-mentioned facts, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sanjay Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

(JASJIT SINGH BEDI)
JUDGE

December 07, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No