

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

CRM-M-56556-2022

Date of Decision: 9th December, 2022

Atul Sharma

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ajay Kumar Gupta, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking regular bail in case of FIR No. 109, dated 8th February, 2022, under Sections 409, 420, 467, 468, 471, 120-B, 201, 34 IPC and Section 13 of the Prevention of Corruption Act, 1988 (for short 'the Act'), registered at Police Station Samalkha, District Panipat.

2. Learned counsel for the petitioner claims parity with co-accused Sonu and others who were granted regular bail by this Court on 29th November, 2022. He submits that petitioner was posted as Data Entry Operator on contract basis and he is in custody since 12th April, 2022.

3. The following order was passed by this Court on 29th November, 2022:-

“1. These four petitions are filed seeking regular bail in case of FIR No. 109, dated 8th February, 2022, under Sections 409, 420, 467, 468, 471, 120-B, 201, 34 IPC and Section 13 of the Prevention of Corruption Act, 1988 (for short 'the Act'), registered at Police Station Samalkha, District Panipat are being disposed of by common order, as the same arise out of one FIR.

2. *A scam in Uttar Haryana Bijli Vitran Nigam (for short, 'the Nigam') saw the light of the day on a complaint made by Suresh Kumar on 8.2.2022. He stated that he had friendship with Ajay Sharma and Kamal Sharma who assured him of getting loan from State Bank of India. In November, 2021, an amount of Rs.3,78,200/- was credited in his bank account but he was told by Ajay Sharma and Kamal Sharma that the said amount was wrongly credited. He repaid the amount to them through PhonePe and cash. Later, on an enquiry from the bank it revealed that no loan was sanctioned in his favour. Further he gained knowledge that brother-in-law of Ajay Sharma was employed as driver with Raghav Wadhawan (Clerk in Nigam) and that Ajay Sharma, Kamal Sharma, Pawan and Raghav Wadhawan embezzled amount from the Nigam and intentionally got the amount credited in his account.*

3. *On the basis of the complaint, FIR was registered. A Special Investigating Team (for short, 'SIT') was constituted. Accused-Pawan Sharma, Ajay Sharma, Yogesh Lamba, Raghav Wadhawan, Atul Sharma, Manhar Gopal Saini (petitioner), Surjeet Gabbar, Pooja Gera (petitioner), Anish Kumar, Executive Engineer-Kulwant Singh (petitioner) and Sonu (petitioner) were arrested and their disclosure statements were recorded. It was found that embezzlement of crores of rupees from State Bank of India's Account of Nigam was done. The disclosure statements revealed the roles of other co-accused and the accused including the petitioners were nominated. Final report qua seven arrested accused was filed.*

4. *It would not be out of place to mention that on coming to know about the scam, a special audit was ordered. The embezzlement was done from 2016 to 2022. Special audit qua 2018 to 2022 has been done.*

5. *The modus operandi adopted was that for payment of arrears of pay revision and gratuity of the retired employees of Nigam were released by preparing fake*

and forged Pensioner Payment Order (for short, 'PPO'). The accused in conspiracy with each other prepared vouchers and cheques in the names of their relatives or known persons, deposited the amounts in their accounts and withdrew the same. In other words, the arrears of the pensioners were not paid to the employees but were embezzled by getting it deposited in the accounts of others and withdrawn thereafter.

6. *The name, custody period and official status of petitioners are tabulated below:-*

<i>Name of the petitioner</i>	<i>Custody</i>	<i>Post</i>
<i>Sonu</i>	<i>16th June, 2022</i>	<i>ALM</i>
<i>Manohar Gopal Saini</i>	<i>17th April, 2022</i>	<i>ALM</i>
<i>Pooja Gera</i>	<i>12th May, 2022</i>	<i>Clerk</i>
<i>Kulwant Singh</i>	<i>16th June, 2022</i>	<i>XEN</i>

7. *Learned counsel for the petitioners submit that investigation is complete, challan stands presented and no further recovery is to be made. The reliance is placed on the orders whereby co-accused Raghav Wadhwan, Ajay Sharma, Yogesh Lamba and Pawan Sharma were granted bail by the Sessions Court.*

8. *Learned State counsel on instructions oppose the prayer for grant of regular bail, however, they are not able to distinguish the case of the petitioners qua the co-accused so far as grant of bail is concerned.*

9. *Without commenting upon the merits of the case, considering the custody period; though the investigation is complete conclusion of the trial is likely to take time; case is prima facie based upon documentary evidence and co-accused have been granted bail, petitioners are granted bail subject to their furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.*

10. *The petitions are allowed.*

11. *It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the*

merits of the case.”

4. Learned counsel for the State though opposes the prayer for grant of bail but on instructions fairly submits that challan has been presented. He is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

6. The petition is allowed.

7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

9th December, 2022
Parveen Sharma

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