

CRM-M-1109-2023

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

CRM-M-1109-2023

Date of decision: 28.02.2023

Himanshu Aggarwal

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amaninder Preet, Advocate,
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition under Section 437(6) Cr.P.C., the petitioner seeks regular bail in case bearing FIR No.07 dated 21.01.2021, under Sections 409 and 420 IPC and Sections 467, 468, 471 and 201 IPC and Sections 66-C and 66-D of the Information and Technology Act, 2000 (added later on) (however charges have been framed under Sections 409, 420 and 201 IPC) and Sections 66-C and 66-D of the Information and Technology Act, 2000 (added later on), registered at Police Station Machhroli, District Jhajjar.

Learned counsel for the petitioner contends that the petitioner has been made a scapegoat in the present case; that as a matter of fact, as per the Operational Guidelines, governing the transactions of the Bank, the petitioner was not authorized to deal with the debit/credit transactions beyond Rs.20,000/- and that the Bank, in order to avoid and evade the

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liability of the actual culprits, has falsely implicated the petitioner in the FIR. Learned counsel further contends that the petitioner has been in custody since 26.02.2021.

Learned counsel for the petitioner points out that vide letter dated 10.03.2022, Addl. Chief Secretary to the Govt. Haryana, had been requested to transfer the above-noted FIR to CBI for further investigation. Learned counsel further points out that vide letter dated 08.09.2022 written by the Addl. Chief Secretary to Govt. Haryana, to the Secretary, Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi, it was recommended that investigation of the present FIR be transferred from District Police, Jhajjar to the CBI.

Learned counsel for the petitioner further contends that a perusal of the orders dated 12.01.2013, 25.01.2023 and 08.02.2023 passed by the trial Court would show that trial of the case is at a standstill and that the case has been adjourned for awaiting the orders qua transferring the case to the Special Court. Learned counsel further submits that till date, the case has not been transferred to the Special Court and that out of 15 prosecution witnesses, 08 witnesses, including the material witnesses, have been examined. In support of his contentions, learned counsel relies upon the judgments rendered by the Coordinate Benches in Smt. Kamlesh Vs. State of Haryana 2009(4) RCR (Criminal) 974 and Manoj Kumar Kaushik Vs. State of Haryana and another, 2021 (2) R.C.R. (Criminal) 142.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that in terms of the order dated 21.09.2011 passed in CRM-M-34998-2009, titled as 'Punjab and Sind Bank

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Vs. State of Punjab and others, the matter is to be transferred for investigation to the CBI. Learned counsel further contends that the crime committed by the petitioner is against the bank; that it is a case, where an employee of the bank, being the trustee of the public funds, had issued duplicate/fake FDRs and transferred an amount of more than Rs.6 crore contained in the said FDRs to other accounts and even had transferred another amount of Rs.1 crore to his own account.

I have heard the learned counsel for the parties.

The petitioner was working as a Single Window Operator-A (Clerical Post). Though the petitioner has been named in the FIR with the allegations of having committed embezzlement of more than Rs.6 crore, yet the fact remains that the petitioner has been in custody since 26.02.2021; that charges have been framed and that out of 15 prosecution witnesses, 08 witnesses have already been examined. Above all, trial of the case is at a standstill and the case has been adjourned for awaiting the orders qua transferring the case to the Special Court. There is no other FIR registered or pending against the petitioner. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

28.02.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No