

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

226

CRM-M-2048 of 2023

Date of Decision:19.01.2023

Surender Singh

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R. S. Chaudhary, Advocate, for
Mr. Sahil Gupta, Advocate, for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present second petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.253 dated 21.09.2020, under Section 420, 406, 467, 468, 471, 506, 201, 120-B IPC registered at Police Station Sadar Dadri, District Charkhi Dadri.

This is a second successive bail petition filed by the petitioner and the earlier bail petition was dismissed as withdrawn by the petitioner on 01.08.2022.

It has been submitted by the learned counsel for the petitioner that 4 prosecution witnesses out of 11 cited witnesses have been examined in the present case and the petitioner is in custody from 20.01.2021, which is almost 2 years. He submitted that the allegations in the present case were that one ex-Sarpanch namely Ramkaran, resident of Tharoli, District Jhajjar had come to the residence of the complainant and had enquired about the children of the complainant and stated that the present petitioner has already recruited 100 boys in the Army and since

both the children of the complainant are already preparing for such like exam, he can do the needful. Thereafter, allegedly the petitioner alongwith his wife and daughter came to his residence alongwith the aforesaid Sarpanch and handed over the documents to his son and thereafter an amount of Rs.8,00,000/- was paid by the complainant and as per the allegations thereafter an amount of Rs.3,00,000/- was also paid and after that some fake call letters were supplied to the complainant.

Learned counsel for the petitioner submitted that in fact it is a case where the ex-Sarpanch against whom the basic allegations have been alleged in the FIR, has not been arraigned as an accused in the present FIR and it was only because of the political enmity in the village that the present FIR was lodged and apart from the present FIR, there are four more FIRs against the petitioner because of the same political enmity out of which in one FIR, cancellation report has already been prepared. He submitted that be that as it may, the petitioner has already faced incarceration for about two years and 4 out of 11 prosecution witnesses have already been examined and it is a case which is triable by a Magistrate. The trial of the case may take long time and the mere fact that the petitioner is also involved in some other cases under the similar allegations, would not disentitle him for grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that it is correct that the petitioner is in custody for about two years and it is also correct that 4 prosecution witnesses have already been examined. She has however opposed the grant of bail to the petitioner on the ground that the petitioner is involved in four more cases, although in one FIR cancellation report has been prepared.

I have heard the learned counsel for the parties.

It is a case where earlier the petitioner had withdrawn bail petition on 01.08.2022 but now second bail petition has been filed on the basis of long custody of the petitioner and therefore this Court is of the view that the successive bail petition will be certainly maintainable. Admittedly, the petitioner has faced incarceration for about two years and four prosecution witnesses have already been examined. The present is a case which is triable by a Magistrate.

During the course of arguments, it was specifically asked from the learned counsel for the parties, as to how the alleged amount was paid, he has submitted that there is no bank transaction with regard to the same and the allegation would be therefore pertaining to cash transaction.

In view of the aforesaid peculiar facts and circumstances whereby the present case is triable by a Magistrate and the petitioner has already faced incarceration for about two years, this Court deems it fit and proper to grant the 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, if not required in any other case.

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

(JASGURPREET SINGH PURI)
JUDGE

January 19, 2023
dinesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No