

(228)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2686-2023
Date of Decision: 27.02.2023

MUKESH KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Divyansh Singh, Advocate for
Mr. Vikram, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.416 dated 21.07.2022 registered under Sections 120-B, 201, 406, 420 and 506 IPC, 1860 (Sections 467, 468 and 471 of IPC, 1860 added later on) read with Sections 4 and 12 of Chit Fund Act, 1982 at Police Station City Sonapat, District Sonapat.

2. The brief facts of the case are that as many as 07 persons namely, (i) Mukesh (petitioner) son of Sahab Singh (ii) Darshana wife of Mukesh (iii) Balram son of Richpal (iv) Sunita wife of Dalbir (v) Krishna (vi) Anjali daughter of Mukesh and (vii) Dipanshu son of Mukesh filed a complaint to the Superintendent of Police, Sonapat with the allegations that they were residents of Shastri Colony Gali No.1. Around 30-35 persons had been duped for an amount of Rs.2 crores at the instance of the accused by getting them (complainants etc.) to deposit money for the purposes of a committee. Now

the accused had suddenly run away and had given a false complaint to the police of having suffered beatings at the hands of the public. In fact, the accused were bad characters and were not returning the public money. Mukesh, Anjali, his son Dipanshu, Sunita, Krishna and Balram used to collect the money for the purposes of committee with a promise that a high rate of interest shall be given to the investors. On asking for their money and ornaments back, threats were given to them (complainant party). In fact, Dipanshu son of Mukesh (petitioner) had been sent abroad to Canada using the money taken from them (complainant party). Appropriate legal action was sought against them.

3. The learned counsel for the petitioner contends that the allegations levelled are completely baseless. In fact, a criminal colour has been given to a civil dispute. Certain civil suits filed ended in a compromise and were withdrawn. Some of the other aggrieved persons have initiated proceedings under Section 138 of the Negotiable Instruments Act. Therefore, since the petitioner was in custody since 02.09.2022. None of the 36 prosecution witnesses had been examined so far and he was a first-time offender, he was entitled to the grant of regular bail moreso, when the case was triable by the Court of a Magistrate.

4. On the other hand, the learned State counsel contends that a huge amount of money has been taken by the petitioner and his co-accused on the pretext of running a committee providing a high rate of interest to the investors who are the complainants in the present case. The said amount had not been returned to the complainant party. The nature of the allegations did not entitle the petitioner to the grant of regular bail. He, however, does not

dispute the fact that the case of the petitioner is triable by the Court of a Magistrate, the petitioner is a first-time offender and none of the 36 prosecution witnesses had been examined so far.

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

6. The veracity of the allegations levelled against the petitioner and his co-accused shall be established during the course of Trial. He is stated to be in custody since 02.09.2022 and none of the 36 prosecution witnesses have been examined so far and he is a first-time offender. Therefore, the Trial of the present case is not likely to be concluded in the near future.

7. The case is triable by the Court of a Magistrate and this Court in case bearing ***CRM-M-24033-2021(O&M)*** titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab Decided on 31.08.2022*** has held that in cases triable by the Magistrate unless there are serious allegations of accused absconding from trial, or tampering with the evidence, bail should be declined only in exceptional circumstances. In the present case, there is nothing specific which has been pointed out to suggest that the petitioner was likely to abscond from justice or tamper with the evidence in case he is granted the concession of bail.

8. Keeping in view the aforementioned facts, the further incarceration of the petitioner is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mukesh Kumar son of Sahab Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

27.02.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No