

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-5979-2023

Date of Decision:-19.04.2023

Amit Chaudhary.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sandeep S. Majithia, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

Mr. Anshul Gupta, Advocate for the Complainant

JASJIT SINGH BEDI, J.(ORAL)

The prayer in the petition under Section 439 Cr.PC is for grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.25 dated 05.02.2022 for offences punishable under Sections 420, 467, 468, 471, 506 IPC registered at Police Station Kalka, District Panchkula.

2. The brief facts of the case are that the complainant Shamit Kumar son of Sh. Kushdev Raj got registered the present FIR with the allegations that his friend Naib Chaudhary got him to meet accused Amit Chaudhary (petitioner) who introduced himself to the complainant as an OSD to the Hon'ble Union Home Minister and stated that he was on good terms with a number of central ministers of the government of India and on account of that fact had got permanent jobs for many unemployed persons and could also get allotted petrol pumps. The petitioner further informed the complainant that the HP Petrol Pump at HMT Pinjore which was not working could be got allotted to him. The complainant expressed his desire for the same for which the accused/petitioner demanded Rs.70 lacs. As per the said demand the complainant deposited Rs.20 lacs in the bank account no.81812010012685 of Syndicate Bank on 08.01.2020 through RTGS. The

accused-petitioner informed the complainant that he had spoken to the Union Minister for Petroleum and Natural Gas and that a petrol pump at Kalka would be allotted to him for which he got the complainant to sign various documents. On a further demand the complainant deposited a sum of Rs.49,17,000/- by RTGS and Rs.8 lacs in cash. The complainant repeatedly asked the accused about the allotment of the petrol pump and the accused made various excuses for the delay in the said allotment. Finally in June 2020 a Whatsapp communication was sent to the complainant on which it was written that the possession of the petrol pump would be given to the complainant on 10.10.2020. However, in October 2020 the complainant was told by the petitioner that the petrol pump allotment had been cancelled. When the complainant enquired at his own level it was found that no such application had been made on his behalf and no such allotment had therefore been done in his name. When the complainant approached the petitioner for refund of the money deposited, the petitioner issued cheques for different amounts, all of which were dishonoured leading to the filing of the complaints under Section 138 of the Negotiable Instruments Act, 1881. Thus, the complainant prayed that necessary legal action be taken against the petitioner.

Pursuant to the registration of the FIR the petitioner sought the concession of anticipatory bail which was dismissed by this Court vide order dated 26.04.2022. Thereafter the petitioner surrendered and is in custody since 16.09.2022.

3. The Counsel for the petitioner firstly contends that a bizarre and illogical story has been propounded by the complainant which was difficult to believe. It was difficult to believe that the complainant would trust a total stranger with an amount of Rs.57,17,000/- for the allotment of petrol pump. He further submitted that this version in the FIR that the petitioner was masquerading as an OSD to the Hon'ble Union Home Minister itself is baseless. He argued that the entire process of allotment was conducted online which goes through a lengthy process of tendering and the petitioner could not have mislead the complainant to get him allotted a petrol pump. He also contended that since proceedings under Section 138 of the Negotiable Instruments Act, 1881 were already pending between the parties the complainant could not be allowed to pursue two remedies. Even otherwise since the petitioner was in custody since 16.09.2022 and only 08

out of the 14 prosecution witnesses had been examined so far, the petitioner was entitled to the grant of bail being a first time offender and the case being triable by a Magistrate.

4. The Counsel for the complainant on the other hand has argued that the petitioner has committed a serious offence by using the name of senior government functionaries to extort money from the complainant and therefore, does not deserve the concession of bail.

5. The Counsel for the State on the other hand contends that the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He however concedes that the petitioner is a first time offender, in custody since 16.09.2022 and only 08 out of the 14 prosecution witnesses had been examined so far.

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

7. 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 court of a Magistrate, unless there are serious apprehensions of accused absconding from trial, or tampering with the evidence, bail should only be declined in exceptional circumstances.

8. In the instant case the petitioner is in custody since 16.09.2022. Only 08 out of 14 prosecution witnesses have been examined so far. He is also stated to be a first time offender. Nothing specific has been pointed out by the counsel for the State or the complainant that the petitioner was likely to abscond from the trial or tamper with the evidence, if he was granted the concession of bail. In such a situation 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-**Amit Chaudhary** son of Rajpal 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.

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

11. 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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 19, 2023

Vinay

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