

(229)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6848-2023
Date of Decision: 14.02.2023

SUSHIL KUMAR SACHDEVA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.S. Jattan, 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.193 dated 21.04.2022 registered under Sections 120-B, 420, 467, 468, 471 IPC (Section 201 IPC added later on) at Police Station Ambala City, District Ambala.

2. The brief facts of the case are that a complaint was made to the Hon'ble Home Minister, Haryana against Sushil Kumar Sachdeva (petitioner) son of Manohar Lal, Amarjeet Singh son of Avatar Singh, Shubh Kumar son of Shri Mohan Lal, Vijay Kumar son of Sh. P.C. Sharma and Rameshwar. It was stated by the complainant-Rishi son of late Shri Sunil Kumar that he was running a Kiryana Shop No.782-B/11 situated at Jalbera Road, Ambala City which was his ancestral property. His (complainant's) father Sunil Kumar was

running the shop until his death in December, 2019. His (complainant's) father had taken Rs.1 lakh on interest in 2011 from the petitioner-Sushil Kumar Sachdeva who was the financier. At that time, his (complainant's) father had given documents of his shop, blank cheque and identity card to the petitioner as security. Thereafter, his (complainant's) father had asked the accused-petitioner for return of his documents so that he could take a loan from the bank and refund the amount taken as a loan from the petitioner. However, the petitioner did not return the document to his (complainant's) father. However on repeated demands, the petitioner stated that there had been a CBI raid at his house so the documents pertaining to him (father of the complainant) were with the CBI and he (petitioner) could help in obtaining duplicate documents from the Tehsil. His (complainant's) father was a simple person. In October/November, 2018, the petitioner took his father to the Tehsildar's shop on the pretext of obtaining duplicate documents of the shop and got transferred the shop in his (petitioner's) name. Thereafter, his (complainant's) father remained under stress. He subsequently suffered a heart-attack and he died in December, 2019. He (complainant) had checked the bank account of his father and found that the petitioner had deposited Rs.5 lakhs and Rs.2 lakhs in his (deceased's) account and had withdrawn the same on the same day by a self-cheque thereby establishing a fraudulent transaction. In fact, the market-value of the shop was Rs.60 lakhs but has been shown to have been sold for Rs.7 lakhs. Thereafter, his (complainant's) mother also became ill. In this manner certain other allegations were also

levelled, it was revealed to him (complainant) that the offence in question had been committed by the petitioner and others.

Based on the aforementioned allegations, the present FIR came to be registered.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case. A civil dispute has been given the colour of a criminal case. In fact, the petitioner was the absolute owner of the shop but the complainant was neither paying rent nor giving possession of the same and wanted to blackmail the petitioner through the instant FIR. An arbitration award with respect to the shop in question had been passed in favour of the petitioner and the complainant had been asked to vacate the shop in question. Since the petitioner was in custody since 02.11.2022 and none of the 12 prosecution witnesses had been examined so far, the petitioner was entitled to the grant of bail, *moreso*, when the case was triable by the Court of a Magistrate.

4. On the other hand, the learned State counsel contends that serious allegations have been levelled against the petitioner. The complainant and his father have been cheated by the petitioner. Therefore, the petitioner was not entitled 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 period of custody undergone by the petitioner as also the stage of Trial.

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

6. The allegations against the petitioner shall be established during the course of Trial. He is stated to be in custody since 02.11.2022 and none of

the 12 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. There is one other case registered against the petitioner, in which he has been granted the concession of anticipatory bail vide order dated 19.03.2020. The copy of the said order is marked as 'X'.

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.

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

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sushil Kumar Sachdeva son of Shri Manohar Lal 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 till the conclusion of the trial and inform

in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. If the petitioner or his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this order.

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 Trial Court is also directed to conclude the Trial expeditiously not later than six months from the next date fixed before it.

13. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

14.02.2023

JITESH

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