

CRM-M-9648 of 2021

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-9648 of 2021 (O&M)

Date of decision: 7th February, 2023

Renu Malhotra @ Seema Malhotra

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Shriyamani, Mr. Rajive Maini and Mr. Lakshay Jindal,
Advocates for the petitioner.
Mr. Sharad Aggarwal, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

This is a second petition seeking regular bail in FIR No. 132 dated 24.3.2018, under Sections 406, 419, 420, 467, 468, 471 and 201 IPC, registered at Police Station Sector 14, Gurugram.

The first petition was dismissed vide order dated 4.9.2020 by passing the following order:

“The matter is taken up for hearing through video conference due to COVID-19 situation.

The present petition is filed seeking regular bail in FIR No.132, dated 24th March, 2018 registered at Police Station Sector 14, Gurugram under Sections 406, 419, 420, 467 and 471 of the Indian Penal Code, 1860.

The allegations in the FIR are that the complainant- Dinesh Aggarwal was introduced to the accused and she asserted of her links with higher officials of the Ministry of Human Resource Development and that she had been entrusted with the task of giving tenders for purchase of raw dry fruits and spices. A sum of Rs. 67,50,000/- was paid through RTGS. Later on, the complainant realized that the accused cheated

him by using forged documents. A sum of Rs.21,00,000/- was returned but she refused to repay balance amount of Rs. 46,50,000/-. The petitioner was arrested on 11th June, 2018. The fact of receiving the amount of Rs.67,50,000/- was authenticated from her bank accounts. A bail application was moved wherein the petitioner offered to pay Rs. 9,00,000/- out of Rs.46,50,000/-. The offer was not acceptable to the complainant and the bail application was dismissed. Thereafter, a compromise was entered between the parties. As per the compromise, Rs. 9,00,000/- was paid and three post-dated cheques i.e. (i) Cheque No.000133 dated 1.9.2018 amounting to Rs. 16,15,000; (ii) Cheque No.000130, dated 1.10.2018 amounting to Rs.13,85,000/- and (iii) Cheque No.000134, dated 1.11.2018 amounting to Rs.7,50,000/-, totalling to `Rs. 37,50,000/- were given to the complainant. It was further agreed upon that in case any cheque is dishonoured, seven days time would be given to the petitioner to clear the amount, in case of default, she will surrender before the Court. In view of the compromise, the bail application was allowed on 31st July, 2018 by the Additional Sessions Judge, Gurugram.

In the meantime, the petitioner was arrested in another case on 28th August, 2018. Thereafter, cheque No. 000133 dated 1st September, 2018 amounting to Rs. 16,15,000/- was dishonoured.

Learned counsel for the petitioner states that the petitioner is ready to settle the dispute and make payment of the balance amount to the complainant. It is further submitted that the balance amount will be secured by submitting tangible securities.

Learned State counsel opposes the prayer for grant of bail and submits that there are six more cases pending against the petitioner i.e. one at Jaipur; one and Panipat and four at New Delhi.

On 3rd September, 2020, learned counsel for the petitioner took time to get instructions as to whether petitioner is ready to clear the balance amount as per the compromise. Today, apart from making bald statement that she is ready to clear the balance amount, no concrete proposal has been put forth. However, it is submitted that she will try to make arrangement for balance payment and clear the balance amount.

No case is made out for grant of concession of bail at this stage, the petition is dismissed.

However, the petitioner would be at liberty approach the trial Court in case she arranges for repayment of money or enters a fresh compromise with the complainant.”

Thereafter, the petitioner approached Additional Sessions Judge, Gurugram. The bail application was rejected on 10.2.2021, hence the present petition.

The brief facts are that a complaint was registered at the instance of Dinesh Aggarwal alleging that he was introduced to the petitioner and she asserted of having links with higher officials of Ministry of Human Resource Development and she could get tenders allotted for purchase of raw dry fruits and spices. A sum of Rs.67,50,000/- was paid through RTGS. The complainant later realised that the petitioner cheated him by using forged documents. A sum of Rs.21,00,000/- was returned but she refused to pay the balance amount. The petitioner was arrested on 11.6.2018. The allegations of receiving the amount of Rs.67,50,000/- was substantiated from the details of bank account of the petitioner. The petitioner is involved in nine more FIRs of similar nature.

Learned counsel for the petitioner submits that the petitioner is in custody for more than three years. She further submits Rs.21,00,000/- were refunded to the complainant. The contention is that the decision of the Supreme Court in ***G. Selvakumar v. The State of Tamilnadu etc., 2020(10) SCC 494*** was not considered by the Sessions Court.

Learned counsel for the State opposes the prayer and submits that forged documents relating to Ministry were used by the petitioner to

cheat the complainant and she is involved in number of cases of similar nature.

At this stage, learned counsel for the petitioner submits that the petitioner is on bail in all other cases.

From the perusal of the order dated 10.2.2021, it is forthcoming that while dealing with the bail application Additional Sessions Judge, Gurugram proceeded on the basis that the petitioner can approach for bail only if she has arranged the amount for repayment or entered a fresh compromise. The observations of this court in order dated 4.9.2020 nowhere bars re-consideration of the prayer for regular bail on the change of circumstances. The observations relied upon "*however, the petitioner would be at liberty to approach the trial court in case she arranges for repayment of money or enters a fresh compromise with the complainant*" were only on the basis of statement made by counsel for the petitioner that the petitioner will try to arrange the balance amount.

There is no quarrel on the proposition that payment of the amount in dispute cannot be a pre-condition for grant of bail.

In view of the above, the matter is remitted back to the Sessions Court for deciding the bail application on merits.

There is no doubt that an endeavour would be made by the court concerned to decide the bail application under Section 439 Cr.P.C. expeditiously.

The petition is disposed of.

Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

7th February, 2023

mk

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |