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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8767-2023 (O&M)

Date of decision: 31.07.2023

Sameer Walia

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Gagandeep Singh Virk, Advocate for petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in case bearing FIR No.368 dated 27.08.2022, registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Sohana, District SAS Nagar, Mohali, Punjab.

2. Per prosecution version, co-accused Abhishek Sehgal along with petitioner demanded Rs.30 lakh for getting some civil suit decided in favour of complainant-Joginder Singh within two weeks. An amount of Rs.25 lakh was paid. Further amount of Rs.2 lakh was paid to petitioner-Sameer Walia at his house and Rs.3 lakh were paid to Abhishek Sehgal at his house. They also demanded Rs.8 lakh for getting another case pending at Kapurthala decided in their favour. When money was demanded back, accused started threatening the complainant. An FIR was registered. Petitioner surrendered before the Court of Illaqa Magistrate on 04.11.2022. Since then he is in custody

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He submits that petitioner was working as a Peon with the Department of Printing and Stationery, Punjab. Allegations leveled in the FIR by complainant Joginder Singh against petitioner are absolutely false and he has no concern or connection with the commission of present offence.

3.1. Learned counsel for petitioner further submits that charges in this case were framed on 31.01.2023, but despite lapse of around 04 months, prosecution has failed to even secure presence of even a single witness. He further contends that per Section 437(6) of Cr.P.C., in a case triable by Magistrate, in the event trial of an accused is not concluded within a period of 60 days from the first date fixed for evidence, then an accused is entitled to be released on bail. He further urges that petitioner is entitled to be released on bail under the provisions of Section 437(6) Cr.P.C. In support of his contention, learned counsel relies on decisions of this Court rendered in **Vinayak Maheshwari Chitlangi versus UT Chandigarh**¹, **Dharaminder Sharma versus State of Punjab**² and **Raman Kumar versus State of Punjab**³.

3.2. Learned counsel would further submit that co-accused of the petitioner, namely, Abhishek Sehgal has already been accorded concession of bail by this Court. Though petitioner's case stands on much better footing, and yet he continues to be in jail, he contends. He also argues that on the ground of parity alone, petitioner is entitled to be released on bail during pendency of trial.

4. On the other hand, learned State counsel, on instructions from ASI Amar Nath opposes the bail petition. She submits that petitioner has committed serious offence. She further submits that allegations levelled against the petitioner are serious in nature. One more case registered under Sections 341, 323, 506 read with Section 34 IPC is pending against petitioner. If enlarged on bail, petitioner may tamper with the evidence and/ or influence the witnesses.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan is stated to have been presented, charges have been framed. Investigation is complete *qua* petitioner, he is thus not required for custodial interrogation. Trial has commenced and the case is fixed for prosecution evidence. Out of 8 prosecution witnesses none has been examined so far. Commencement/conclusion

¹ CRM-M-10653-2020, decided on 17.09.2020

² CRM-M-20684-2020, decided on 03.11.2020

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I attest to the accuracy and
integrity of this order/judgment

of the trial is likely to take quite sometime. Allegations against petitioner are a matter of trial at this stage.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas petitioner has already been languishing in jail for more than 8 months in preventive custody, he being behind bars since 04.11.2022. Petitioner is being kept in judicial custody on the unfounded apprehension of tampering with the evidence and/ or influencing the witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

8. That aside, case in hand is triable by Magistrate. Charges were framed on 31.01.2023 and since then, no prosecution witness has been examined. I am of the view that trial ought to have been concluded within 60 days from the date fixed for taking evidence.

9. Petitioner is stated to be sole bread winner with the added responsibility of looking after his parents who are living in penury, in his absence. Being a person with family responsibilities, he poses no flight risk. The offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.

10. Co-accused Abhishek Sehgal has been granted concession of bail by this court vide order dated 19.07.2023. Alleged role attributed to the petitioner appears to be at par with that of his co-accused Abhishek Sehgal. In the premise, I see no ground as to why petitioner should not be meted out with similar treatment.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
14. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

31.07.2023
vandana

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