

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

107+206

CRM-M-9145-2023 (O&M)

Date of Decision:30.05.2023

JASKARAN SINGH**...PETITIONER****VS****STATE OF HARYANA****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Gagan Oberoi, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Mr. Sanjeev Majra, Advocate
for the complainant.

SANDEEP MOUDGIL, J. (Oral)

This petition has been filed under Section 439 Cr.P.C seeking grant of regular bail in FIR No.0011 dated 03.01.2022, registered under Section 120-B, 420 IPC and Section 3 of the Haryana Protection of Interest of depositors in Financial Establishment Act, 2013.

Learned counsel for the petitioner has placed reliance upon the order dated 01.03.2023 passed in CRM-M-10412-2023 whereby, the co-accused has been granted the concession of interim bail, which has been made absolute by this Court today after the petitioner has joined the investigation and a categorical stand has been taken by the learned State counsel that he is not required for further custodial interrogation.

Learned State counsel though submits that the petitioner is in custody since 18.11.2022 and investigation is complete, wherein the petitioner is not

required for any further custodial interrogation and nothing is to be recovered after framing of the charges. There are total 51 prosecution witnesses, out of which, none has been put forth in the witness-box so far meaning thereby, the conclusion of trial shall take considerable time and no useful purpose will be served by keeping the petitioner behind bars any further.

Mr. Chahit Bansal, Advocate for the complainant has vehemently contended that it is a case wherein 2.05 crores is to be recovered from the petitioner and in case, the petitioner is enlarged on bail, the same could not be recovered. As far as the afore-said contention of the learned counsel for the respondent No.2-complainant is concerned it is beyond imagination to understand as to how the investigating agency would recover the amount once the challan stands presented after completion of investigation and charges have been framed, nothing left with the investigating agency to do on its part and the trial has now commenced.

Learned counsel for respondent No.2/complainant at this stage has laid much stress on the Whatsapp chat between the petitioner and the complainant, which is also on record wherein, the petitioner has admitted his liability for that amount but as per the Evidence Act, 1872 the said fact is yet to be proved by leading evidence during the course of trial wherein, investigation is complete, such argument has no force before this Court.

In the light of the observations, the argument raised by the counsel for the petitioner is of no help. Looking into the totality of the facts and the other contention raised by the counsel for the complainant to the effect that the petitioner is a habitual offender and multiple complaints are pending against him, to which learned counsel for the petitioner has controverted the said fact stating that no other FIR is pending against the petitioner and the said fact has also been

corroborated by the learned State counsel, this Court is sanguine of the fact that mere pendency of complaints would not tantamount to observe that the petitioner is a habitual offender. Moreover, the pendency of any other case or complaint is not a predicament for this Court, to consider the case of the petitioner of regular bail as far as the instant case is concerned, in the light of observation and the proposition as held by the Apex Court in the case of “*Datta Ram Vs. State of U.P*” *2018(2) RCR (Criminal) 131*, that the evidence and other incriminating material involved in a particular FIR is to be used against the accused in that very case alone which cannot be put against the petitioner in the instant FIR.

Having heard learned counsel for the parties and having examine the record. After considering the submissions made by the learned counsel for the complainant as well this Court is of the considered view that since investigation is complete, nothing is to be recovered wherein the petitioner has already suffered 07 months of incarceration and the allegations qua usurping Rs.2.05 crores is yet to be determined by the trial Court after leading the evidence before it, no useful purpose to be served detaining the petitioner behind bars for an indefinite period inasmuch as out of 51 prosecution witnesses none has been examined so far, the petitioner cannot be detained further.

Hence, in view of the observations made hereinabove, the petitioner is directed to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court//Duty Magistrate concerned.

30.05.2023
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(SANDEEP MOUDGIL)
JUDGE

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