

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

CRM-M-9420-2023

Date of Decision:-28.02.2023

Varinder Pal Chaudhary.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

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

Present:- Mr. Bipan Ghai, Senior Advocate assisted by
Mr. Nikhil Ghai, Advocate for the Petitioner.

Mr. Shubham Kaushik, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.238 dated 11.11.2022 under Sections 419, 420, 465, 468, 471, 201 and 120-B IPC and Section 66D of I.T. Act registered at Police Station Kotwali, District Patiala.

The present FIR came to be registered on secret information. The investigating agency received information that Navraj Chaudhary, Gurpreet Singh, Harwinder Singh, Jatinder Singh, Sonu Kumar and Jainpal were amongst the persons who were running coaching centres at different places in Punjab and Haryana. For different government jobs, these persons facilitated the candidates to cheat by using electronic instruments like Bluetooth, GPS, Microphone etc. If timely action was not taken, then the aforementioned accused could disturb the selection process of the jobs in the different government departments as advertised by the Punjab Government.

The petitioner was not named in the FIR. During the course of investigation accused Sonu was arrested on whose disclosure statement, the

present petitioner has been nominated as an accused. As per the disclosure statement , it is alleged that he (Sonu) had helped the petitioner to answer the exam for the post of Naib Tehsildar because of which the petitioner was able to secure 21st rank in the examination.

Pursuant to the said disclosure statement the petitioner was arrested on 18.11.2022.

The counsel for the petitioner contends that there is absolutely no admissible evidence against the petitioner. The disclosure statement of his co-accused Sonu does not form a part of the report under Section 173 (2) Cr.PC. The co-accused of the petitioner, namely, Vijender has been granted the concession of bail vide order dated 17.02.2023 in CRM-M-7773-2023. Since the petitioner was in custody since 18.11.2022 and none of the 46 witnesses had been examined so far, he was entitled to the grant of bail as he was a first time offender and the case was Triable by the Court of a Magistrate.

The learned Counsel for the State on the other hand contends that on account of the help rendered by co-accused Sonu the petitioner was able to secure 21st rank in the examination. Since the allegations against the petitioner were grave, he was not entitled to the grant of bail.

I have heard learned Counsel for the parties at length.

The veracity of the allegations levelled against the petitioner shall be established during the course of the Trial. The co-accused of the petitioner, namely, Vijender has been granted the concession of bail vide order dated 17.02.2023 in CRM-M-7773-2023. Admittedly the petitioner is a first time offender. He is stated to be in custody since 18.11.2022. None of the 46 prosecution witnesses have been examined so far and, therefore, the Trial of the present case is not likely to be concluded any time soon. The case is otherwise triable by the court of a Magistrate.

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 only be declined in exceptional circumstances. In the present case nothing exceptional has been pointed out as to why bail ought to be declined to the petitioner. Neither

has the State expressed any serious apprehension of either the petitioner being a flight risk or likely to tamper with the evidence if he was granted the concession of bail. Therefore, the further incarceration of the petitioner is not required.

Thus, without commenting on the merits of the case, the petition is allowed and petitioner-**Varinder Pal Chaudhary** son of Sh. Om Parkash is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

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

In addition, the petitioner (or any one on their behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 the trial without sufficient cause.

The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 28, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>