

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

CRM-M-10153-2023

Date of Decision:-03.03.2023

Jatinder Singh @ Makhan.

.....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,
Mr. Rishabh Singla, Advocate &
Mr. Nipun Chaudhary, Advocate for the Petitioner.

Ms. Navreet Kaur Barnala, 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 learned Senior counsel for the petitioner contends that so far as the petitioner is concerned he is stated to have helped two candidates namely, Vijender and Varinder Pal Chaudhary (since granted bail vide orders dated 17.02.2023 in CRM-M-773-2023 and 28.02.2023 in CRM-M-9420-2023) in clearing competitive examination. Since the petitioner was in custody since 13.11.2022 and none of the 44 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 04 mobile phones without sim cards along with GSM devices have been recovered from the petitioner. The petitioner along with his co-accused Sonu were in fact amongst the main accused duly named in the FIR. Therefore, since allegations against him 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 and his co-accused shall be established during the course of the Trial. Admittedly the petitioner is a first time offender. He is stated to be in custody since 13.11.2022. None of the 44 prosecution witnesses have been examined so far. Two of his co-accused namely, Vijender and Varinder Pal Chaudhary have since been granted bail vide orders dated 17.02.2023 in CRM-M-773-2023 and 28.02.2023 in CRM-M-9420-2023. 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-**Jatinder Singh @ Makhan** son of Sh. Daya Nand 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

March 03, 2022

Vinay

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