

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

CRM-M-10970-2023

Date of Decision:-24.05.2023

Gurdeep Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. T.P.S. Tung, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy 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.55 dated 23.05.2021 under Sections 406, 420, 120-B IPC registered at Police Station Talwara, District Hoshiarpur.

2. The brief facts of the case are that one Gurwinder Singh son of Gurmukh Singh filed a complaint with the investigating agency against 14 persons namely (i) *Ravinder Singh Sidhu son of Avtar Singh*, (ii) *Ravinder Singh Sidhu son of Avtar Singh*, (iii) *Sanjeev Sikander*, (iv) *Palwinder Singh*, (v) *Jagmohan Singh*, (vi) *Gagandeep Singh*, (vii) *Mukhtiar Singh* (viii) *Khajan Singh* (ix) *Umeshwar Singh* (x) *Lekh Raj* (xi) *K.J.S. Bal*, (xii) *K.K. Dutta*, (xiii) *Gurdeep Singh* and (xiv) *Arun Kumar, Clerk*, who were allegedly the Directors/Promoters/Authorized Agents of M/s Kim Infrastructure and Developers Ltd. As per the allegations the company was in the real estate business and in the year 2006 had floated two schemes namely Lump Sum Plan or One Time Payment Plan and the Regular Investment Plan or Deferred Payment Plan. In the Lumpsum plan the investors were required to pay the entire cost of the plot upfront whereas in the Regular Investment Plan the investors were required to ply the costs of the plot, sought to be purchased in instalments. Under the respective

schemes, the investors could opt to quit from the scheme after a specified period and seek refund of the amount invested. A Public Interest Litigation had been filed before the Madhya Pradesh High Court based on a CBI report directing the various authorities including SEBI to take appropriate action against the companies mentioned therein in accordance with law. In that list the name of the present company (KIM Infrastructure and Nector Development Limited) was also included while the investigation was being conducted by SEBI. The accused had collected a huge amount from the investors all over the country running into more than Rs.1500 crores in the garb of the Land Bank and sale of land by alluring the investors. The complainants including Ram Kishan son of Rasila Ram and Kulwinder son of Ajit Singh had invested a total amount of Rs.55 lacs. However, the accused neither issued letters of allotment nor refunded the amounts so invested. Various other FIRs had also been registered against the accused and the company. A request was made for registration of an FIR in the present case as well.

Based on the aforementioned complaint, the statement of Gurwinder Singh, Ram Kishan and Kulwinder Singh son of Ajit Singh were recorded and it transpired that they had invested a huge amount with the company but neither were they given any piece of land nor was the money refunded to them. The company had closed all its offices in the year 2018. Thus as the complainants and their family members had been deceived the aforesaid FIR came to be registered against the present petitioner.

3. The counsel for the petitioner contends that he has been falsely implicated in the present case. A perusal of the FIR would show that there was no demand of any money made by the petitioner nor had the petitioner received any amount from the complainant. He was a salaried employee in the company KIM Infrastructure and Nector Development Limited and was working as guest house caretaker at its branch office at Amritsar on a consolidated salary of Rs.3500/-. The petitioner had worked with the company till 28.02.2017. The instant FIR had been registered in the year 2021 i.e. after 04 years from the time the petitioner had left the company. As the petitioner was in custody since 08.10.2021, none of the 30 prosecution witnesses had been examined so far, he had been granted the concession of bail in three cases registered against him and in two cases he stood convicted and appeal had been filed against the judgment of

conviction, he was entitled to the concession of bail in the instant case as well more so when the case was triable by the Court of a Magistrate.

4. The Counsel for the State on the other hand contends that the petitioner along with his co-accused have defalcated a huge amount from the public at large by setting up a multi level chit fund scheme which is impermissible to be set up as per the existing laws of the country. He has criminal antecedents. Since he has been convicted in two cases and is an accused in 04 other cases including the present FIR, therefore, he was not entitled to the concession of bail. He however, fairly concedes that the petitioner is in custody since 08.10.2021 and none of 30 prosecution witnesses have been examined so far.

5. I have heard learned Counsel for the parties at length.

6. 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.

7. Admittedly the petitioner is in custody since 08.10.2021 and none of the 30 prosecution witnesses have been examined so far. In FIR No.81 dated 21.04.2021 under Sections 406, 420 and 120-B IPC P.S. City Gurdaspur, District Gurdaspur, FIR No.99 of 2021 under Sections 406, 420, 120-B IPC P.S. Talwara, District Hoshiarpur and FIR No.291 dated 16.12.2020 under Sections 406, 420, 120-B IPC P.S. Dasuya, District Hoshiarpur, the petitioner has been granted the concession of bail by either this Court or by the Trial Court. In FIR No.61 dated 2.4.2021 under Sections 406, 420 and 120-B IPC P.S. City Nawanshahar, District SBS Nagar and FIR No.24 dated 5.2.2021 under Sections 406, 420, 120-B IPC P.S. City Nawanshahar, District SBS Nagar the petitioner stands convicted and the appeals are pending before the Appellate Court. In this situation, the further incarceration of the petitioner is not required.

7. Thus, without commenting on the merits of the case, the

petition is allowed and petitioner-**Gurdeep Singh** son of Sh. Jaswant Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. 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.

9. In addition, the petitioner (or any one his behalf) shall prepare a FDR in the sum of Rs.3,00,000/- 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 trial without sufficient cause.

10. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 24, 2023

Vinay

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