

CRM-M-13912-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13912-2023 (O & M)

Date of decision: 23.03.2023

Gursewak Singh Dhillon

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sant Pal Singh Sidhu, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.83 dated 02.04.2018 under Sections 420, 406, 120-B IPC registered at Police Station Tripuri, Patiala, District Patiala.

2. The brief facts of the case are that one Gurpreet Singh Gill made a complaint to the investigating agency for the registration of an FIR against Gursewak Singh Dhillon (petitioner) Harpal Singh Dhillon, Pardeep Singh, Swaran Singh Gill, Sameer Yusuf Khan, Noor Hasan Shah and Harpal Singh Buttar. As per the said complaint, one Om Parkash was working as an agent in the Post Office. In the year, 2013, Om Parkash visited him (complainant) and on the asking of Om Parkash, he (complainant) invested his money in the bonds of Post Office and the share

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market. Om Parkash, thereafter, told him (complainant) about the different plans of Purvanchal Multi State Co-operative Society whereby he (complainant) could make a profit. Based on the statement of Om Parkash, two cheques for a sum of Rs.12 lacs were given on 10.12.2013 in the name of the company and receipts in that regard were given to him (complainant). The interest was given to him (complainant) for sometime. After a while, it was stopped. On seeking a return of the amount, two cheques were issued to the complainant, which came to be dishonoured. On an enquiry, it came to light that one Gursewak Singh was the President of the Society and Swaran Singh was its Vice-President.

Based on the aforementioned complaint, an enquiry took place and the prima facie culpability of the accused including the petitioner came to be established.

3. The learned counsel for the petitioner contends that the complainant willingly invested in the company, namely, Purvanchal Multi State Co-operative Society. No amount had been misappropriated by the petitioner and the entire matter is purely of civil nature. Since the petitioner was in custody since 29.09.2021 and the case was triable by the Court of a Magistrate, the petitioner was entitled to the grant of bail, moreso, when his co-accused Pardeep Singh had been granted the similar concession vide order dated 30.01.2019 (Annexure P-2).

4. The learned counsel for the State, on the other hand, contends that the petitioner is one of the main accused. A huge amount has been entrusted by the complainant to the Company which has been defalcated.

Therefore, the petitioner was not entitled to the grant of bail, moreso, on

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account of his criminal antecedents as he is an accused in four other cases i.e. FIR No.192 dated 19.09.2021 under Sections 384, 383, 419, 420 and 506 IPC at Police Station City Jagroan, FIR No.11 dated 15.02.2017 under Sections 420, 406 and 120-B IPC at Police Station Longowal, FIR No.15 dated 10.01.2018 under Sections 420, 120-B IPC 4/5 Act, 1978 at Police Station City Sangrur, FIR No.541 dated 14.12.2018 under Sections 420 and 120-B IPC at Police Station City Barnala, besides various cases under the Negotiable Instruments Act.

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

6. Admittedly, the petitioner is in custody since 29.09.2021. None of the 23 prosecution witnesses have been examined so far. In FIR No. 192 dated 19.09.2021, the petitioner has been granted the concession of bail and in FIR No.541 dated 14.12.2018, he has also been granted the concession of bail. In FIR Nos.11 dated 15.02.2017 and FIR No.15 dated 10.01.2018 also, he has been granted the concession of bail vide orders, Annexures P-3 and P-4.

4. This Court in the case of “Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022), has stated that broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule”. Nothing specific has been pointed out by the learned State counsel to suggest that the petitioner was likely to tamper with the evidence or threaten the witnesses or

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abscond from the Trial in case he is granted the concession of bail.

Therefore, the further incarceration of the petitioner is not required.

7. In view of the aforementioned discussion but without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gursewak Singh Dhillon, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other cases except the cases mentioned hereinabove.

9. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

March 23, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No