

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 28949 of 2023 (O&M)
DATE OF DECISION: 17.07.2023

Sarit Kumar Murgai

...Petitioner

Versus

State of U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rohit Mahajan, Advocate,
For the petitioner.

Mr.Sumit Jain, Addl. P.P. U.T., Chandigarh.

ARUN MONGA, J. (ORAL)

This is second foray of the petitioner before this Court, seeking regular bail in case bearing FIR No.279 dated 03.09.2017, registered under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Central, Sector-17, Chandigarh, as the earlier one was dismissed as withdrawn on 06.01.2023.

2. Per FIR, Mr. M.A. Lamba, Assistant General Manager at State Bank of Patiala, Sector-8, Chandigarh stated that petitioner and his wife Raj Kumari (co-accused) applied for vehicle loan to purchase a new car i.e. a Fortuner, from Sector 22-D, Chandigarh branch of bank. A bank draft dated 26.05.2015 amounting to Rs.10 Lakh was issued in favour of M/s. EM-PEE Motors Pvt. Ltd. Petitioner and his co-accused submitted the receipt issued by the said motor company, but on verification the said receipt of Rs.10 Lakh was found to be forged. Petitioner and his co-accused also tampered with the bank draft and obtained a further loan of Rs.16.48 Lakh from HDFC Bank, Sector 9C, Chandigarh. Accused also submitted a forged invoice dated 28.05.2015 issued by EM-PEE Motors Pvt. Ltd. in which complainant Bank was shown as a mortgagee. Further, petitioner and his co-accused also submitted a forged

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Form No.21 with the bank and also submitted a forged registration certificate (RC) of vehicle as PB-65Z-7683, although on verification it came to light that said RC was issued for another vehicle i.e., Toyota Innova hypothecated in favour of State Bank of India. Co-accused Raj Kumari stood as guarantor for her husband/petitioner. Petitioner was arrested on 11.01.2022, after five years of the registration of FIR.

3. Learned counsel for petitioner submits that petitioner took vehicles on loan for the purpose of running taxis. From these loans, various vehicles were purchased on hire-purchase basis from different banks. Petitioner was paying the instalment of the loans regularly and kept on paying for more than one and a half year. Thereafter, due to financial crunch, petitioner could not continue payment of loan instalments.

3.1. Learned counsel for petitioner further contends that matter is apparently civil in nature. However, a false FIR against the petitioner and his wife who stood as guarantor was registered. He submits that investigation is complete. Challan has been presented and charges have been framed. Custodial interrogation of the petitioner is not required but he continues to be under incarceration.

3.2. He further submits that petitioner is the sole breadwinner of the family having two minor children and old aged mother to look after and in his absence, they are living in sheer penury as even wife of the petitioner does not provide for the minor children, since she has been living separately from the petitioner owing to certain matrimonial differences. Furthermore, he points out that petitioner is not at flight risk in any manner, given that he has minor children, old aged mother to look after and is a committed family person.

4. Per contra, learned State counsel, assisted by ASI Ram Lubhaya opposes the bail petition. He submits out of 31 witnesses, 10 have already been examined. One more case registered under Section 420 of IPC is pending against him, though he is on bail in that case. He does not deserve concession of

bail at this stage, since during the course of investigation, he was declared a proclaimed offender in this case. If released on bail, there is every likelihood that he may abscond, contends learned State counsel.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan has been presented and charges have been framed. Investigation *qua* the petitioner is complete and petitioner is being kept in jail only on the suspicion of tampering with the evidence and/or influencing the witnesses. Petitioner has already been in preventive custody for more than one year and six months now. Allegations against petitioner are a matter of trial which is unlikely to conclude in near future. Bail allows the accused to maintain their freedom until their guilt or innocence is determined, but the petitioner is in jail since 11.01.2022.

7. In the instant case, given his family status, being father of two minors who are in his custody, there is no likelihood that petitioner might flee to not appear in Court if released on bail. Though petitioner is involved in another case under Section 420 IPC, but he is on bail in that case.

8. That apart, the alleged crime purportedly committed by the petitioner is non-violent in nature. In case, he is released on bail, there is no likely threat to the society. Since trial has commenced, petitioner is not required for any custodial interrogation.

9. Considering the overall scenario and without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Magistrate, as the case may be.

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11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

17.07. 2023
vandana

(ARUN MONGA)
JUDGE

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