

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

261

CRM-M-20952-2022

Date of decision: 15.05.2023

Gursev Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. J. S. Lalli, Advocate
for the petitioner

Mr. Praveen Bhadu, AAG, Haryana

Mr. D. K. Singal, Advocate
for the complainant

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No. 151 dated 05.12.2021, registered under Sections 406, 420, 467, 468, 471, 120-B IPC at Police Station Sector-20, District Panchkula.

2. Learned counsel contends that the petitioner has been in custody for the last about 3 months whereafter he was granted interim bail on medical grounds in CRM-M-13784-2022 vide order dated 25.04.2022 for one month, which was disposed of and the same was extended vide order dated 23.05.2022 in this petition, which is still continuing. He has never misused the liberty. He is a dealer who was to supply the machinery to co-accused Parminder and Maninder, proprietors of K. V. Alloys for which they got a loan sanctioned from the complainant-Bank, which was transferred to the petitioner by the said proprietorship firm. However, he returned the said amount to the proprietors of

the firm and only Rs.10 lakh were retained which comes to his share as per the reply dated 02.07.2022, submitted by ASI Gurbachan Singh, to the bail application. He has got 3 drafts amounting to Rs.20 lakh in the name of the complainant Bank, the photocopy of which is taken on record, which he is ready to hand over to the Bank to be kept with it in form of FDR's, subject to the outcome of the trial. Charges have not been framed and in all, there are 16 prosecution witnesses. It is a case of magisterial trial.

3. The said drafts have been received by the learned counsel for the complainant-Bank, who however submits that 50% of the amount of loan retained by the petitioner was transferred after lodging of the FIR.

4. In rebuttal to the above, learned counsel for the petitioner relies on the transaction history, as in the ledger, Annexure P-3, appended alongwith CRM-M-20952-2023, to show that after 29.08.2019, there has been no transaction from the petitioner to the co-accused, while the FIR was lodged on 05.12.2021. Though, the petitioner is involved in other cases, however, he is on bail. In this regard, he relies on the judgment passed by Hon'ble The Supreme Court titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

5. Learned State counsel assisted by learned counsel for the complainant opposes the bail on the ground that there are specific allegations against the petitioner of having defrauded the co-accused and giving them fake invoices to obtain the loan. However, learned State counsel is unable to controvert the submissions with regard to the custody, stage of the case and the petitioner being on bail in other cases and that he has not misused the concession of interim bail granted to him.

6. Heard.

7. Hon'ble The Supreme Court of India in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

8. The drafts handed over to the learned counsel for the complainant-Bank by the petitioner to show his bonafide be deposited in FDR by the Bank and the copies of the same be produced before the trial Court, which shall be subject to the outcome of the trial.

9. In view of the afore referred judgment and facts and circumstances of the case that the petitioner was on interim bail and there are no allegations of he having misused the concession in any manner, is in custody for the last 3 months; the case is triable by the Magistrate; charges are yet to be framed and there are 16 prosecution witnesses in all; the trial is likely to take a considerable time, his incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

10. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of

which, he is an accused, or for commission of which he is suspected of.

5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

6. The petitioner shall not in any manner misuse his liberty.

7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

11. It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

12. In view of the above, it is clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

15.05.2023

Mehak

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