

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.27096 of 2021 (O&M)
Date of Decision: 31.10.2023**

Amit Malik

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vinod Ghai, Senior Advocate assisted by
Mr. Shivam Sharma & Mr. Amritpal Singh Maan, Advocates
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

Mr. Puneet Kakkar, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail pending trial to the petitioner in FIR No.295 dated 21.05.2019, under Sections 415, 420, 465, 467, 468, 471, 201, 34, 120-B of the Indian Penal Code, 1860; Section 66-D of the Information Technology Act, 2000, registered at Police Station Samalkha, District Panipat.

(2) The Coordinate Bench, on 20.12.2021, granted interim bail to the petitioner along with other co-accused and relevant part thereof reads as under:-

“xxxxxxx

**CRM-M-27096-2021, CRM-M-43979-2020 and CRM-M-49483-
2021**

By these petitions, filed under the provisions of Section 439 of the Cr.P.C, the petitioners seek the concession of regular bail, upon FIR no.295, dated 21.05.2019, having been registered at Police Station Samalkha, District Panipat, alleging therein the commission of offences punishable under Sections 415, 420, 465, 467, 468, 471, 201, 34 and 120- B of the IPC and under Section 66-D of Information Technology Act, 2000.

Learned senior counsel appearing for the petitioners in CRM-M-27096-2021 and 43979-2020, as also learned counsel appearing for the petitioner in CRM-M-49483-2021, submit that all the petitioners herein having been in custody for about 2 ½ years, with proceedings in the trial having been stayed by this Court on a request made by learned counsel appearing for the complainant himself, the petitioners deserve to be admitted to bail on that ground alone, it being a magisterial trial, with no other criminal cases registered against them.

Learned State counsel as also the learned counsel for the complainant, both oppose the aforesaid prayer by submitting that the amount of embezzlement/fraud alleged to have been perpetrated by the petitioners and the co-accused being more than Rs.2.5 crores, admitting them to bail might result in their absconding.

Having considered the matter, simply keeping in view the period of the custody of the petitioners as also the stage of the trial, with all officials of the bank stated to have already testified before the trial court even as per the learned counsel appearing for the complainant-bank, the petitioners are ordered to be admitted to interim bail to the satisfaction of the trial court, till the next date of hearing before this court, with that court to ensure that sufficiently heavy amounts are furnished by the petitioners by way of their bail bonds, with local sureties to be also produced by them, and with the antecedents of such sureties to be verified by that court, including proof of the property of such sureties.

Adjourned to 01.02.2022.

Interim order to continue till the next date of hearing only and specifically.

To be shown in the urgent motion list.

A photocopy of this order be placed on the each file of the other connected cases.”

(3) Learned Senior Counsel for the petitioner contends that in compliance of aforesaid order, petitioner is regularly appearing before the Court below.

(4) Learned State Counsel on instructions has acknowledged the above factual position.

(5) Although learned Counsel for the complainant has opposed the prayer; but keeping in view the fact that petitioner is regularly appearing before the Court below, therefore, the objection in this regard is rejected.

(6) Heard both sides and perused the paper-book.

(7) It transpires that petitioner was granted interim regular bail by the Coordinate Bench on 20.12.2021 and since then, he is appearing before the Court below.

(8) It is not the case of the prosecution that petitioner is likely to misuse the concession of interim bail or flee from justice in any manner.

(9) Although, it is pleaded by both sides i.e. complainant as well as learned State Counsel that petitioner is the main accused.

(10) Be that as it may, since petitioner is on interim bail and he is regularly appearing before the Court below and there is no allegation that he has ever misused the concession of interim bail and more particularly, out of total 37 prosecution witnesses, 16 have already been examined; thus, in such a scenario, sending him in custody at this stage would not serve any purpose.

(11) Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 20.12.2021, is made absolute. He shall be

admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(12) Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

(13) The above observations may not be construed as an expression of opinion on the merits of the case.

(14) It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana as well as complainant would be at liberty to move an appropriate application for recalling of this order.

(15) Disposed off accordingly.

(16) Pending application(s), if any, shall also stand disposed off.

October 31st, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No