

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112+222

CRM-37188-2023 in/&
CRM-M-23825-2023
Date of Decision: 19.09.2023

Sunil @ Vijay Shekhawat

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Prem Prakash, Advocate,
for the petitioner.

Mr. Gurbir S. Dhillon, A.A.G., Haryana.

VIKAS SURI, J. (Oral)

CRM-37188-2023

The application for placing on record facts and documents is allowed. Annexures P-13 to P-18 are taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-23825-2023

[1] This is a petition under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.030 of 2021, dated 22.01.2021, under Sections 120-B, 405, 406, 419, 420, 463, 464, 465, 467, 468, 471, 472, 473, 474, 506 and 504 IPC, registered at Police Station Sadar, Gurugram, Haryana.

[2] The brief facts of the case are that a complaint was made by one Pardeep to the police on the allegations that a sum of ₹55,00,000/- was taken by one Sanjay Satpathy (Director of DBM Retail Pvt. Ltd.), Richpal Singh and others as a security on the pretext of providing franchisee of their brand 'Big Mart', to him, which was to be started at Hubli in the State of Karnataka. Later on, on enquiry it was revealed that the said persons are fraudsters and have duped many other persons of the other parts of country as well in the same manner. Despite asking they neither returned the money so invested nor provided any franchisee as promised. The FIR was registered and during investigation, it came to fore that petitioner along with co-accused is confined in District Jail, Mathura in another case. His production warrants were obtained and he was arrested in the present case.

[3] Learned counsel for the petitioner submits that the petitioner had been falsely implicated in the present case. He was neither a Director of the company nor its signatory as alleged and he has nothing to do with the running of the day to day affairs of company in any manner. Thus, he cannot be held responsible for the offences, if any committed by the said company. He contends that even if the allegations are taken to be true on the face of it, the present case is a mere breach of contract and no offence of cheating is made out and the dispute is solely of civil nature. The alleged offences are triable by the Court of Magistrate. No witness has been examined so far out of the cited prosecution witnesses. The charges are yet to be framed and hence, the trial would take considerable time to conclude and therefore, petitioner deserves the concession of bail, more particularly when out of the

13 cases registered against him, he has been granted bail in 12 cases.

[4] Upon notice, status report by way of affidavit dated 01.07.2023 has been filed. While referring to the status report, learned State counsel contends that the petitioner along with co-accused established DBM Retails Pvt. Ltd. and some other companies where he was working as Operation Manager. Petitioner along with co-accused allured people to invest in their company on the pretext of providing franchisee of 'Big Mart' and duped them of their money. Petitioner has purchased a house and a Hyundai Venue car out of the proceeds of the said money coming to his share. He further submits that as there are multiple cases pending against the petitioner, he is not entitled to the concession of bail. He, however, concedes that in the present case, the petitioner is in custody since 12.01.2023 and none of 17 cited prosecution witnesses has been examined so far and in 12 out of the 13 cases registered against him, he has been granted the concession of bail.

[5] Heard learned counsel for the parties.

[6] This Court in the case titled as ***Maninder Sharma vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M-24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

“Therefore, 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.

However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

[7] Admittedly, the petitioner is an accused in 13 cases, the details of which are reproduced herein below:-

Sr. No.	FIR No./Year	Under Sections	Police Station	Annexure
1	563/2020	420, 467, 468, 471, 411, 409, 506 & 120-B IPC	Phase III, District Gautam Budh Nagar	P-5
2	571/2020	420, 467, 468, 471, 411, 409 & 120-B IPC	Phase III, District Gautam Budh Nagar	P-9
3	562/2020	420, 467, 468, 471, 411, 409, 504, 506 and 120-B IPC	Phase III, District Gautam Budh Nagar	P-4
4	565/2020	420, 467, 468, 471, 411, 409 and 120-B IPC	Phase III, District Gautam Budh Nagar	P-7
5	570/2020	420, 467, 468, 471, 411, 409, 504, 506 & 120-B IPC	Phase III, District Gautam Budh Nagar	P-8
6	572/2020	420, 467, 468, 471, 411, 409 and 120-B IPC	Phase III, District Gautam Budh Nagar	P-10
7	564/2020	420, 467, 468, 471, 409, 504, 506, 411 and 120-B IPC	Phase III, District Gautam Budh Nagar	P-6
8	146/2020	420, 506 and 120-B IPC	Police Station Jwalapur, District Haridwar	P-15
9	546/2020	420, 467, 468, 471, 409, 504, 506, 411 and 120-B IPC	Phase III, District Gautam Budh Nagar	P-3
10	0296/2020	420, 406 & 120-B IPC	Kotwali, District Sikar	P-16
11	0343/2020	420, 406 and 506 IPC	Kotwali, District Mathura	P-12
12	65/2020	406, 420, 467, 468, 471 and 120-B IPC	Technocity, Kolkata	Bail granted
13	0521/2020	406, 420, 467, 468, 471 and 120-B IPC	Sadar Gurugram	Bail granted

[8] A perusal of the above-mentioned chart would go to show that other than in the present case, the petitioner has been granted the concession of bail in all cases. Further, no serious apprehension has been expressed by the State that the petitioner would abscond from justice; tamper with the evidence or influence the witnesses, if he is granted the concession of bail. The petitioner is in custody since 12.01.2023 in the present case and none of the prosecution witnesses have been examined so far, as the charges are yet to be framed. Therefore, the trial is not likely to conclude anytime soon. In the given situation, his further incarceration for an indefinite period is not warranted, more particularly when the case is triable by the Court of Magistrate.

[9] Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sunil @ Vijay Shekhawat is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate concerned.

[10] 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 case/crime other than the cases referred to in this order.

[11] If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present case, the State/complainant shall be at liberty to seek cancellation of bail granted vide this order.

[12] In addition, the petitioner (someone else on his behalf) shall prepare an FDR in the sum of ₹1,00,000/- 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.

September 19, 2023

harish

(VIKAS SURI)
JUDGE

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