

221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26241-2023

Decided on : 30.10.2023

Davinder Singh Gill

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. Mohit Kapoor, Addl. AG, Punjab

Manjari Nehru Kaul, J.(Oral)

1. Instant petition has been filed by the petitioner seeking concession of regular bail in case FIR No.05 dated 22.03.2022 under Section 406, 420, 120-B, IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at Police Station NRI, SAS Nagar, Mohali.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the case in hand only because he had lodged criminal cases against higher ranking Police Officer, Gautam Cheema. Learned counsel further submits that influence wielded by Gautam Cheema was to such an extent that he was able to create obstacles in the investigations of other FIRs, which were registered against him by the petitioner; on account of which this Court had transferred the investigation to CBI. In support of his submissions, learned counsel has drawn the attention of this

Court to order dated 04.03.2020 (Annexure P-5) passed by this Court. It has been further submitted that though the cases registered against Gautam Cheema had been initially quashed by this Court vide order dated 04.05.2022, the Hon'ble Supreme Court had set aside the said order of the Court vide order dated 10.04.2023. It has still further been submitted that since trial was pending against Gautam Cheema, the police officers had rallied behind him and were now harassing the petitioner by planting false criminal cases against him; the institution of the present case was another attempt by higher ranking officials to wreak vengeance on the petitioner with the sole purpose to pressurize him and his wife to withdraw the various criminal cases, which had been lodged by them against Gautam Cheema.

3. Learned counsel for the petitioner submits that the petitioner has been in custody for more than one year in a case of Magisterial trial after having been arrested on 11.07.2022. It has further been submitted that charges stand framed in the case in hand and till date, not a single prosecution witness out of the 20 cited, has been examined. Therefore, there is no likelihood of the trial concluding anytime soon. It has also been contended that the co-accused has already been granted the concession of bail by this Court vide order dated 30.07.2018 (Annexure P-26). Learned counsel has submitted that out of 13 cases registered against the petitioner he stands acquitted in 5 cases whereas cancellation report has been presented in two cases. Furthermore, while relying upon on the judgment of Hon'ble Supreme Court in Maulana ***Mohd. Amir Rashadi vs. State of U.P. and others, 2012(2)***

SCC 382, Prabhakar Tewari vs. State of UP and another, 2020 (11) SCC 648 and Ganesh Shivkumar Sagar vs. State of Gujarat, 2023 SCC Online SC 903, it has been submitted that the petitioner cannot be denied the concession of bail solely on the ground of his criminal antecedents and which was one of the reasons why the learned trial court had denied him the concession of bail.

4. Per contra, learned State counsel while opposing the prayer made by the counsel opposite has submitted that there are serious allegations against the petitioner of usurping the money of innocent people on the pretext of sending them abroad. It has been submitted that the petitioner is a habitual offender, which is evident from the fact that as many as 13 cases were registered against him. Learned State counsel has however not been able to controvert the fact that since the framing of charges on 20.02.2023, none of the 20 prosecution witnesses have been examined so far.

5. Heard learned counsel for the parties and perused the relevant material on record.

6. In the case in hand, the offences for which the petitioner has been charged with, are triable by Magistrate. The petitioner has been in custody for over a year having been arrested on 11.07.2022. As not disputed by the State counsel, the investigation in the present case is complete. No doubt, while granting the concession of bail, the Court has to keep in mind the criminal antecedents of the accused, however, the same cannot be the sole basis for denial of bail as the Court must weigh other relevant surrounding

circumstances. It has also been brought to the notice of this Court that similarly situated co-accused Vivek Sharma has already been extended the concession of bail by this Court vide order dated 12.07.2022. In the circumstances coupled with the long incarceration of the petitioner since 11.07.2022 in a case of Magisterial trial and the unlikelihood of the trial concluding in the near future, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner is admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

30.10.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No