

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-23896-2023
Date of decision: 17.05.2023

Brajesh Kumar Kataria

....Petitioner

Versus

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Girdhari Arora, Advocate
for the petitioner
Mr. Praveen Bhadu, AAG, Haryana.

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 of FIR No. 0129 dated 14.03.2018, registered under Sections 406, 420, 506 and 120-B IPC and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 at Police Station New Colony, District Gurugram.
2. Learned counsel contends that the petitioner who is 63 years old has been in custody for the last more than 2 years having been arrested on 21.04.2021. He is neither the beneficiary nor has taken any money from the complainant. The allegations against him are of having allegedly induced the investors to deposit money with co-accused Tribhuvan Kumar Parnami Managing Director and Incharge of the company. The petitioner has been implicated only on account of the fact that he was also a director, however, there are no specific allegations against him of having been incharge of day-to-day affairs of the company or the

commissioning of the offence. Charges have been framed and out of 70 prosecution witnesses, only 7 have been examined. The offences are triable by the Magistrate. Co-accused Tribhuvan Kumar Parnami has already been granted bail by this Court in 4 similar cases that were pending against him vide orders dated 12.05.2022, 18.11.2022 and 28.02.2023. The properties of the petitioner, co-accused and other family members having been attached vide Gazette notification dated 19.12.2018 issued by Government of Haryana. The petitioner is involved in 3 other cases. 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.

3. In support of his submissions, he places reliance on the judgments of Hon'ble the Supreme Court of India in **Ravindranatha Bajpe vs. Mangalore Special Economic Zone Ltd. And others**, CRA-1047-1048-2021 dated 27.09.2021, **Sunil Bharti Mittal vs. Central Bureau of Investigation**, (2015) 4 SCC 609, **Sanjay Chandra vs. CBI** 2011 (4) RCR (Crl.) 898 and **Satender Kumar Antil vs. CBI and others**, (2023) 1 SCC (Cri.) 1.

4. Learned State counsel opposes the bail on the ground that there were specific allegations against the petitioner of inducing the complainants to invest in the company of the main accused namely Tribhuvan Kumar Parnami and the petitioner was also director of the said company and is involved in 3 more cases. However, he is unable to controvert the submissions with regard to the custody, stage of the case and the co-accused having been granted bail.

5. Heard.

6. 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.”

7. In view of the afore referred judgments and facts and circumstances of the case that the petitioner has been in custody since 2 years; co-accused has been granted bail; charges have been framed but only 7 out of 70 prosecution witnesses have been examined; the trial is likely to take considerable time, his further incarceration would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

8. 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.
9. 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.
10. 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

17.05.2023

Mehak

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