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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 18.07.2023

Rasal Chand

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. S.K. Yadav, Advocate for the petitioner.

Mr. Karan Garg AAG Haryana.

Mr. Davinder Lubana, Advocate for the complainant.

ARUN MONGA, J. (Oral)

Petitioner, a 72 years senior citizen, seeks bail in case bearing FIR No. 43 dated 11.02.2020, registered under Section 406, 420, 120-B IPC (later on added Sections 467, 468, 471 IPC), at Police Station Naraingarh, District Ambala.

2. Per FIR, complainant Sadhu Singh, a retired Subedar, owner of about 9 acres of land, has been cheated by petitioner. His case is that along with his wife Kuldeep Kaur and his daughter-in-law Sarabjeet Kaur went to State Bank of India to deposit money where he met petitioner Rasal Chand S/o Molu Ram R/o # 849, Sector 17, HUDA, Jagadhri, Sunil Kumar Diwan S/o Balbir Dev R/o # 759, Sector 17 HUDA, Jagadhri, Kuldeep, Vinod Sharma R/o Officer Colony Jagadhri and Randhir Singh S/o Mattu Ram R/ Village Ambli Police Station Naraingarh and Pawan Kumar R/o Village Batora. Instead of depositing the money in the Bank, they persuaded the complainant to deposit the same in their registered Society named Nationalized Bank Employees and Other Public Cooperative T&C Society Ltd, Naraingarh, Ambala in order to earn higher rate of interest. They assured the complainant that the money deposited in the Society was safe and it was their responsibility to refund it as and when he would want it back. Under their

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influence, complainant deposited Rs.16.00 lakh in total on different dates while his daughter-in-law, namely, Sarabjeet Kaur deposited Rs.8,34,830/- as FD in Society for one year. The total amount deposited with the Society was Rs. 24,34,830/- A total of 18 FDs were got done in the Society. However, at the time of maturity of 7 FDs, complainant went to the members of the Society as he wanted to send his grandson Ravinderjeet Singh abroad but the Society members on one pretext or the other evaded to return the matured amount. Later on, it was found that about 300 people have deposited about 50 crore rupees in the aforesaid Society which the members of the said Society were not returning even after maturity. It was alleged in the FIR that members of the Society had bought private properties and even transferred some properties in the name of their relatives. In this manner Society member Rasal Chand (petitioner herein) in connivance with other members had duped a number of people of their hard-earned money.

3. Learned counsel for petitioner submits that that the petitioner has been in custody since 01.08.2020 and has undergone almost three years of custody. He further submits that from bare perusal of FIR, no offence as alleged, is made out against the petitioner. He has been falsely implicated in the present case. In any case, petitioner has nothing to do with the alleged embezzled amount. He further submits that allegations *qua* offence under Section 467 IPC are very vague and have simply been made as the same are prescribed with higher punishment.

4. On the other hand, learned State counsel, on instructions from ASI Sewa Singh opposes the bail petition. He submits that petitioner has committed serious offence. He submits that there are twelve more cases pending against the petitioner, out of which he is on bail in only one case. She also submits that in the other two cases, production warrants have been issued against the petitioner.

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5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Petitioner has already been under prolonged incarceration of around three years *qua* the alleged offence committed under Section 420 IPC, for which the maximum punishment is 7 years. Assuming that he was already a convict of the said crime even then he would be entitled to suspension of his sentence during the pendency of appeal, had he chosen to file one. Moreover, challan has been presented in the present case and even charges have also been framed. Petitioner is not required for custodial interrogation. Trial is proceeding further at a snail pace. Out of total 317 witnesses, only 7 have been examined. Trial is thus still likely to take long time, whereas petitioner has already been languishing in jail for the past more than three years in preventive custody. Petitioner has clean antecedents.

7. Petitioner is stated to be 72-year old suffering from heart ailment. Except him, there is none to look after his wife aged 70 years, who is living all by herself in the twilight of her life, as both his sons are residing separately.

8. Apprehension that, if petitioner is released on bail, he is likely to sell off his immovable assets, which currently he is unable to do so being in confinement, can be plugged by making him undertake not to sell any of his immoveable property. Further, there appears to be no evidence or suspicion that petitioner will attempt to influence the witnesses and tamper with evidence or interference with judicial process. On a Court query, learned counsel for the petitioner states that petitioner would give an undertaking before the Court below as part of his bail condition that he will not sell any of the immovable assets owned by him and as a collateral, he states that his son, namely, Vipin would also act as a surety for him before the Court below. As a part of the surety bond, he

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would also give an undertaking that any of the immoveable properties owned by him (son) shall also be not sold without permission of the Court.

9. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

10. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

11. It is made clear that any observations made hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 18, 2023
Ajay

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