

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

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CRM-M-25644-2023(O&M)
Date of decision: 25.09.2023

Rajesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. GS Ghuman, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.935 dated 08.12.2022, registered under Sections 406, 420 and 34 IPC (Sections 467, 468, 471 and 120-B IPC added later on), at Police Station Hansi City, District Hansi.
2. Learned counsel contends that the petitioner is in custody for about 8 months. He has been falsely implicated in the present case. A reference is being made to the representation that had been submitted by his wife against the complainant on 02.03.2020, Annexure P-2, which is much prior to registration of the present FIR and the dispute between the petitioner and the complainant was resolved by way of compromise dated 18.03.2020, Annexure P-3, however, the complainant resiled from the same. Thereafter a legal notice, complaint to the Magistrate and suit for compensation was filed against the complainant by the wife of the

petitioner, Annexures P-4 to P-6. Both the suit and complaint are pending. The present FIR is a counter blast to the same, otherwise, no amount had been received by the petitioner in his account from the complainant. The offences are triable by Magistrate. On 22.09.2023, charges have been framed only under Sections 406 and 120-B IPC and not under 420 IPC. None out of 22 witnesses has been examined. The petitioner is involved in two more cases, one of which is under the IPC and the other Negotiable Instruments Act and is on bail. Reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 24.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 7 months and 25 days.

4. Learned State counsel opposes the bail on the ground that the petitioner had duped the complainant by inducing him to deposit the amount in the account of Adarsh Cooperative Society. He is however unable to controvert the submissions made regarding stage of the trial and the petitioner being on bail.

5. Heard.

6. Hon'ble The Supreme Court 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. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for last 7 months and 25 days; on bail in other case; it is a case of Magisterial trial; charges have been framed on 22.09.2023 only under Sections 406 and 120B IPC and out of 22 witnesses, none has been examined so far; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, 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:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) 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.
- (v) 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.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) 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.

- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach 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 are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

25.09.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No