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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26855-2023 (O&M)

Date of decision: July 05, 2023

Maanavv Kaoshal @ Manav Kaushal

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate,
Ms. Mahima Dogra, Advocate for petitioner.

Mr. Vikram Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner, stated to be 39-year old property dealer, seeks bail in criminal case bearing FIR No.175 dated 18.05.2022, registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 10, 12 of the Haryana Development and Regulation of Urban Area Act, 1975 (for short 'Act'), at Police Station Rajendra Park, Gurugram.

2. Per prosecution, a complaint was received through memo No.GN/TP-E/2022/4874 dated 18.05.2022 from the District Town Planner, Gurugram for lodging FIR against M/s Sai Aaina Farms Pvt. Ltd. and others, stating that fake bank guarantees were furnished for issuance of license to develop/set up an Affordable Group Housing project. Basis thereof, FIR was registered and petitioner was arrested on 16.03.2023 in the course of investigation.

3. Learned Senior counsel submits that petitioner has falsely been implicated in the present case. Petitioner is just a property dealer and has no connection, whatsoever, with preparation of bank guarantees, be it either genuine or fake, its irrelevant. Petitioner was not even named in the FIR and has been

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arrayed as accused later on, on the basis of statement of one Sachin alleged to be Accountant in M/s Mahira Homes Company. Petitioner has been made a scapegoat without having been involved in the alleged fraud. He contends that petitioner is neither Director nor involved in the functioning of the companies nor beneficiary, in any manner, of the proposed license which was to be granted to the company. There is no allegation against the petitioner regarding forging alleged fake bank guarantees. He submits that, in any case, nothing is required to be recovered from the petitioner.

4. On the other hand, learned State counsel, on instructions from Inspector Parveen Kumar, opposes the bail petition. He submits that petitioner has committed a serious offence.

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

6. Status report dated 27.06.2023 has been tendered in course of hearing by learned State counsel, which is taken on record and marked as Annexure 'A'. Para-9 thereof reveals that investigation *qua* petitioner is complete and even charge-sheet has also been filed before learned trial Court, on 09.06.2023. The case in hand is based essentially on documentary evidence and the same is already seized and available with the Investigating Agency.

7. Petitioner is in custody since 16.03.2023. Trial is still likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 3-months in preventive custody. On court query, it transpires that he is the sole bread winner and has old aged parents, the father being 72-year old and mother being 68-year old, and in his absence there is no one to look after them.

8. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

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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 and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for 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 05, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No