

241 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1368-2023

Date of Decision:31.07.2023

Narvair Singh

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Mehtab Singh, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J.

1. The present revision petition has been preferred against the order dated 28.03.2023 passed by the Court of Sessions Judge, Karnal, whereby the application for grant of bail under Section 167(2) of Cr.PC filed by the present petitioner was ordered to be dismissed.

2. Since the petitioner has only prayed for grant of bail under Section 167(2) Cr.PC, there is no need to reproduce the allegations levelled by the complainant in the present case. In fact, on the basis of the statement made by Mrs. Harmeet Kaur widow of Sahib Singh, FIR No. 908 dated 22.09.2021, under Sections 406, 420, 506 of IPC and under Section 24 of the Immigration Act, Police Station Sadar, Karnal, District Karnal, was registered against the petitioner and others for cheating and misappropriating the money by forgery. Even further, allegations were levelled regarding causing the disappearance of Vikram Singh son of the petitioner on the pretext of sending him abroad. .

3. Learned counsel for the petitioner contends that in the present case, the FIR was registered on 22.09.2021 and the petitioner/accused

was arrested on 05.01.2022. In the present case, the present petitioner was charged for the offence under Section 370 IPC, which is a scheduled offence under National Investigation Act, Act (hereinafter referred to as the “Act”) and the trial is to be held by the Special Court under the “Act”. As per Section (6) (1) of the “Act” 2008, on receipt of the information and recording thereof under Section 154 Cr.PC, relating to any scheduled offence, the SHO of the Police Station shall forward the report to the State Government, which shall forward the report to the Central Government and if it is found to be a fit case to be investigated by NIA, the Central Government may direct the NIA to investigate the said offence. Learned counsel further contends that since the petitioner was in custody since 05.01.2022 and the investigation had not been completed by the NIA, the petitioner was entitled to be released on bail under Section 167 (2) Cr.PC.

4. Learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner was arrested on 05.01.2022 during the course of investigation and various recoveries of incriminating evidence was effected from him. He further contends that after completion of the investigation, the final investigation report under Section 173 (2) Cr.PC was prepared against the petitioner and other accused under Sections 370, 406, 420, 506, 302 and 120-B of IPC and Section 24 of the Immigration Act on 26.03.2022 and the same was presented in the Court on 30.03.2022 for trial. Learned State counsel further submits that the petitioner was arrested on 05.01.2022 and the challan has already been presented before the Trial Court on 30.03.2022, the petitioner is not entitled for grant of bail under Section 167 (2) Cr.PC., because as per the statutory requirements, the challan could be

presented within a period of 90 days as the investigation related to an offence punishable under Section 302 IPC. Learned State counsel further submits that no doubt the offence under Section 370 of IPC is a scheduled offence under the “Act”, but as per the provisions of Section 6(7) of the “Act”, till the NIA takes up the investigation of the case, it is the duty of the Officer In-charge of the police station to continue the investigation. In the present case also, in view of the provisions contained in Section 6 (7) of the “Act”, the investigation was continued by the SHO of the police Station and the challan was presented within a period of 90 days. He further contends that now a communication dated 21.03.2023 has been sent to the State Government to proceed as per the provisions contained in Section 6 of the Act.

5. I have heard learned counsel for the parties and with their able assistance; I have perused the record carefully.

6. I find sufficient force in the submissions made by learned State counsel. In the present case, the FIR was initially registered under Section 406, 420, 506 and 120-B of IPC and Section 24 of the Immigration Act. During the course of investigation, the petitioner was arrested on 05.01.2022 and the offences under Sections 370, 302 IPC were also added by the police. The investigation continued with the police and the challan was prepared on 26.03.2022 and was presented in the competent Court of law on 30.03.2022 for trial. As per the provisions of Section 6 (7) of the “Act” the local police was empowered to continue the investigation till the NIA takes up the investigation of the case. Consequently, it is established that the petitioner was charged for the offence under Section 302 IPC, which was punishable with death or imprisonment for life and the police had completed the investigation within a

period of 90 days, which disentitles the petitioner to grant of default bail under Section 167 (2) of the Cr.PC. Thus, finds no merits in the present case, the present petition is ordered to be dismissed.

31.07.2023
hitesh
(N.S.SHEKHAWAT)
JUDGE

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