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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30987-2023 (O&M)

Date of decision: August 02, 2023

Anmol Nidhi

....Petitioner

versus

State of U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Harinder Pal Singh Ishar, Advocate for petitioner.

Mr. Abhinav Gupta, Additional P.P. U.T., Chandigarh.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in a case bearing FIR No.0196 dated 27.07.2021, registered under Sections 409, 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (for short 'IPC'), (challan presented and charge framed under Sections 420 and 120B IPC only) at Police Station, Sector-39, Chandigarh.

2. First Information Report (FIR) was registered per a complaint received by the Director, Department of Tourism and Cultural Affairs, Punjab and CEO, Punjab Heritage and Tourism Promotion Board (for short 'PHTPB'). It was complained against accused Rajni Pandey and S.P.S. Dhindsa they indulged in tampering of cheques, fraud and embezzlement/misappropriation of funds and causing loss to the government exchequer. Allegations *inter-alia* are the bank statement of SBI bank from years 2019 onwards was scrutinized and number of suspicious/bogus transactions were discovered. There was no record of these transactions in the tally record maintained by the officer, no vouchers were available and cheques/RTGS through which payments were made shown as cancelled in the relevant register. Substantial amount involved was found to be around Rs.90.00 Lacs during the period. It is alleged that quantum of fraud would increase substantially, if a thorough investigation/enquiry is conducted after scrutinizing the record of the SBI, Branch Sector 8-C, Chandigarh from 2009 onwards and other bank accounts of the PHTPB. An FIR was thus registered. During investigation, petitioner was also arrested on 03.03.2022 and is in custody ever since.

3. Learned counsel for petitioner submits that, way before the FIR, petitioner had resigned from his job on 21.01.2019 from PHTPB where he was working as Deputy Manager on contractual basis. An NOC was also issued by the Department in favour of the petitioner.

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Petitioner was not even named in the FIR. He has been falsely implicated in this case during investigation. Nothing is to be recovered from the petitioner, and no useful purpose would be served by keeping him behind bars. He also contends that co-accused, namely Rajni Pandey, who is the main accused, has been granted concession of bail vide order dated 06.07.2023 passed by a co-ordinate Bench of this Court. He further contends that co-accused, Surinder Pal Singh Dhindsa who was the authorized signatory and attributed similar allegations, has also been granted concession of anticipatory bail vide order dated 11.04.2023 (Annexure P-4) passed by a co-ordinate Bench of this Court.

4. On the other hand, learned Additional P.P., U.T., Chandigarh, on instructions from Inspector Kirpal Singh, opposes the petition and submits that petitioner has committed a serious offence. He further submits that there is one more case against the petitioner. If released on bail, he might tamper with evidence or influence witnesses.

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

6. On court query, learned state counsel submits that challan was presented and charges were framed on 28.09.2022. It is stated that there are total 17 witnesses, out of them 4 have been examined so far. Since trial has commenced, petitioner is thus not required for custodial interrogation.

7. Allegations against petitioner are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more 1 year and 4 months in preventive custody, being behind bars since 03.03.2022. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses.

9. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.

10. It is stated that petitioner is a 40-year old person having aged parents to look after, including added responsibility of his sister, who is totally dependent on him as she is suffering from epilepsy. Being a family man having responsibilities and fixed abode, it is unlikely that he poses any flight risk and/or will flee from the trial proceedings.

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11. Co-accused of the petitioner, who was attributed similar allegations, has been granted concession of anticipatory bail by a co-ordinate Bench of this Court. Even the main accused, namely Rajni Pandey is also on bail. In the premise, I am of the view that petitioner deserves to be released on bail as well on the basis of parity.
12. 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.
13. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, 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.
14. 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.
15. 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.
16. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 02, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No