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

CRM-M-32198-2023

Date of decision: 13.07.2023

Maninder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. B.R. Rana-I, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.27 dated 13.04.2023 registered under Sections 420, 465, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Daba, District Ludhiana.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 13.04.2023 and investigation qua the petitioner is complete and challan has been presented qua her and there are 16 prosecution witnesses, out of which, none have been examined as yet and even the charges have not been framed, thus, the conclusion of trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and no loss has been caused to any person in the present case. It

is contended that the co-accused of the petitioner namely Ram Baksh @ Ramu has already been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 02.06.2023 passed in CRM-M-27293-2023 and in the said case, one of the grounds for granting bail was non-compliance of Sections 41 and 41-A of Cr.P.C. It is further contended that in the present case also, there is no compliance of the said Sections and on the said ground also, the petitioner is entitled to bail. It is argued that the trial Court had dismissed the bail application of the petitioner on 17.05.2023 keeping in view the fact that the challan had not been presented at that stage. It is pointed out that now, the challan has been presented and the investigation is complete.

3. Learned State Counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has submitted that the present FIR was registered on the statement of Jasminder Singh who was posted as the Patwari and on 13.04.2023, at about 11.30 AM, Ram Baksh @ Ramu, co-accused of the petitioner went to the said Patwari and handed over photocopies of the five registries to enter their mutations and signatures and stamp which belonged to the MLA, were present on the said registries and the said Patwari had verified as to whether the stamp and the signatures were appended by the MLA or not and it was found that it was not appended by her and the present petitioner, in collusion with the other accused, had forged the said signatures and had affixed the stamp of MLA and thus, the petitioner does not deserve the concession of regular bail. However, the other facts have not been disputed by learned State Counsel.

4. Learned counsel for the petitioner, in rebuttal to the abovesaid

arguments, has submitted that the FIR has not been registered on the statement of said MLA and it is not the case of the State that the registries were forged and in fact, the said registries were genuine documents and thus, no loss has been caused to any person, much less, the State.

5. This Court has heard learned counsel for the parties and has perused the paper book.

6. In the present case, the petitioner is a lady of 37 years of age and is in custody since 13.04.2023 and investigation qua the petitioner is complete and challan has been presented qua her and out of 16 prosecution witnesses, none have been examined as yet and even the charges have not been framed till date and thus, the conclusion of trial is likely to take time. The petitioner is not involved in any other case. Co-accused of the petitioner namely Ram Baksh @ Ramu, who as per the FIR is stated to have handed over the photocopies of the five registries to the complainant, has already been granted the concession of regular bail by the Coordinate Bench of this Court vide order dated 02.06.2023 passed in CRM-M-27293-2023. Relevant portion of the said order is reproduced as under:-

*“5. On a pointed query put to the learned State counsel in respect of issuance of notice to the petitioner in terms of mandate of **Arnesh Kumar's case and Satender Kumar's case (supra)**, learned State counsel, on instructions from SI Daljeet Singh, submits that no notice was issued to the petitioner under Section 41-A Cr.P.C.*

*6. In view of **Satender Kumar's case (supra)**, the investigating agency is duty bound to comply with the mandate of Sections 41 and 41-A Cr.P.C. The directions issued by the Hon'ble Apex Court in **Arnesh Kumar's case (supra)** are to be*

mandatorily complied with. The Court is required to satisfy itself on the compliance of Sections 41 and 41-A Cr.P.C. and non compliance would entitle the accused for grant of bail. Any dereliction on the part of the Investigating Agency is required to be brought to the notice of the higher authorities by the Court followed by an appropriate action.

7. *Evidently, no notice has been issued to the petitioner, therefore on the strength of the mandate given by the Hon'ble Apex Court in **Arnesh Kumar's case and Satender Kumar's case (supra)**, I deem it appropriate to grant regular bail to the petitioner.*

8. *In view of above, this petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.*

9. *Nothing expressed hereinabove would be construed to be an expression of opinion on the merits of the case.”*

7. Even with respect to the petitioner, there is non compliance of Section 41-A of Cr.P.C. as no notice was issued to the petitioner under the said provision. It is not the case of the prosecution that the sale deeds regarding which the mutation was sought to be entered were forged or fabricated. It is also not their case that any loss has been caused to any person, much less, the State. The trial Court had rejected the bail application of the petitioner on 17.05.2023 by taking into consideration the fact that the challan has not been presented at that stage. Since the challan has now been presented and investigation qua the petitioner is complete thus, no useful purpose would be served by keeping the petitioner in further incarceration.

8. Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on

regular bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to her not being required in any other case.

9. However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

10. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

13.07.2023
Pawan

(VIKAS BAHL)
JUDGE

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