

CRM-M-33012-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33012-2023 (O&M)

Date of decision: July 18, 2023

Deepak Goyal

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Randeep Singh Rai, Senior Advocate with
Mr. Farhad Kohli, Advocate,
Mr. Anurag Arora, Advocate for petitioner.

Mr. Karan Garg, AAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner seeks bail in criminal case bearing FIR No.175 dated 18.05.2022, registered under Sections 420, 467, 468, 471, 201, 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, on a complaint received through memo No.GN/TP-E/2022/4874 dated 18.05.2022 from the District Town Planner, Gurugram, an FIR has been registered against M/s Sai Aaina Farms Pvt. Ltd. and others. Allegations are that that fake bank guarantees were furnished to Town and Country Department for issuance of license to develop/set up an Affordable Group Housing project. Pursuant thereto, is in course of investigation, petitioner was arrested as a suspect on 07.05.2023.

3. Learned Senior counsel submits that petitioner was not even named in the FIR, but has been arrayed as accused on the basis of custodial statement of one Maanavv Kaoshal @ Manav Kaushal who has already been granted concession of bail vide order dated 05.07.2023 in CRM-M-26855-2023 by this Court. Petitioner also deserves parity with co-accused and ought to be released on bail on that ground alone. Petitioner has been simply made an easy scapegoat in the alleged fraud. He contends that petitioner is neither Director nor involved in the functioning of the companies nor is a beneficiary, in any manner, of the proposed license which was to be granted to the company. Just like

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co-accused Manav Kausahl, petitioner too has no connection, whatsoever, with preparation of bank guarantees, be it either genuine or fake, it is irrelevant. Petitioner has falsely been implicated in the present case. In any case, there is no allegation against the petitioner regarding forging alleged fake bank guarantees from the bank, other than the allegation of being a recipient of Rupees 30 lakhs from the account of the accused company. Money was remitted in petitioner's bank account by way of garnishment under instructions of Manav Kaushal, who owed the same to him against a legitimate debt, counsel contends. He further submits that in any case, nothing is required to be recovered from the petitioner.

3.1. Learned Senior counsel would further urge that main accused Dharam Singh Chokkar, despite being promoter/owner of accused company M/s. Sai Aaina Farms Pvt. Ltd., against whom FIR is primarily directed, has been let off by the investigating agency due to his links with political high-ups.

4. On the other hand, learned State counsel, on instructions from ASI Giriraj, opposes the bail petition. He submits that petitioner has committed a serious offence. As per disclosure statement of co-accused, petitioner had taken Rs.30,00,000/- for helping accused companies in furnishing fake bank guarantees. Challan has been presented in this case. There are total 17 witnesses, though none has been examined so far.

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

6. Prosecution relies primarily on documentary evidence in the case in hand, which has already been seized and is in possession of the Investigating Agency. Petitioner's role appears to be of lesser significance compared to the co-accused, Maanavv Kaoshal/ Manav Kaushal, as per arguments of learned senior. It is claimed that the petitioner is merely alleged to be an accomplice of the co-accused, without any specific overt or covert actions attributed to him. The petitioner, being a real estate agent like Maanavv Kaoshal, used to frequently meet and associate with him. This association seems to have led to an unfounded suspicion that the petitioner is also involved in the alleged crimes committed by the co-accused, resulting in his implication in the case. Petitioner's

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continued custody is based on the alleged coerced custodial statement of Maanavv Kaoshal, which lacks independent credibility and may not be *per se* admissible in trial. Final determination of the allegations will take place during the trial. Regarding the transfer of Rs. 30,00,000/- into the petitioner's account from the company's account, which had applied for a colony/group housing license, learned senior counsel explains that it was part of the settlement of certain interrelated accounts between the petitioner and Maanavv Kaoshal. The remittance occurred under the instructions of Maanavv Kaoshal, as the money was owed to the petitioner by him.

7. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Petitioner is in custody since 07.05.2023. Commencement/conclusion of Trial is still likely to take long time. Whereas, petitioner has already been languishing in jail for the past more than 2months in preventive custody. On a Court query, it transpires that he is the sole bread winner. His family comprises of wife and three children (two are minors) and old parents aged 60-65years. In his absence, there is no one to look after them. His father is also suffering from kidney problem and requires constant medical attention which is to be provided/arranged by petitioner.

7.1. That apart, petitioner has clean antecedents. It transpires that investigation *qua* petitioner is complete and petitioner is not required for custodial interrogation.

7.2. Given the non-violent nature of the offense, it is reasonable to believe that the petitioner can be safely monitored and supervised while awaiting trial without jeopardizing public safety.

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.

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.

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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 18, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No