

CRM-M-33320-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33320-2023 (O & M)

Date of decision: 19.07.2023

Sonu Singh

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. R.S. Rai, Sr. Advocate,
with Mr. Karan Pathak, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.356 dated 12.09.2022 under Sections 408, 420, 467, 468, 471, 201 and 120-B IPC registered at Police Station Badshahpur, Gurugram.

2. The present FIR came to be registered at the instance of the complainant-Ashok Gupta, General Manager of Mark Exhaust System Limited, who stated in his complaint that petitioner-Sonu Singh had been working in the Finance Department of the company and had been involved in the company's bank work profile, which included preparation of cheques and transferring funds through NEFT/RTGS as well as maintaining the accounts. The petitioner-Sonu Singh had misappropriated/embezzled the

funds of company during the period of 2012-13 to 2019-20 and wrongfully

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transferred funds to ICICI Bank account which had been operated by him and had been opened by using fake documents. The accused had misappropriated the cheques of their company and got those cleared under a fictitious name of Ranbir Singh. During investigation, it had been found that Mr. Ranbir Singh's account was just an alias name of Mr. Sonu Singh's account. A total amount of Rs.2,59,28,790/- had been transferred into the account of Sonu Singh (petitioner).

3. The learned Senior counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The FIR had been registered after a considerable delay despite yearly audits having taken place. It does not stand to reason that the petitioner could have committed the offence in question and the offence would have remained undetected for so many years. Further, no recovery had been made from him post his arrest. As the petitioner was in custody since 19.12.2022, none of the 31 prosecution witnesses had been examined so far and he had clean antecedents, he was entitled to the concession of bail as the case was otherwise triable by the Court of a Magistrate.

4. The learned counsel for the State, on the other hand, contends that the petitioner has committed a grave offence. It had been clearly established during the course of investigation that he had opened a fake account in the name of Ranbir Singh in which an amount of approximately Rs.4 Crores had been transferred fraudulently during the period 2010-2020.

Therefore, the nature of the allegations levelled against the petitioner did not entitle to the grant of bail. He, however, fairly concedes that the petitioner is

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a first-time offender, is in custody since 19.12.2022 and that none of the 31 prosecution witness had been examined so far.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

7. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of trial. Admittedly, the petitioner is a first-time offender, in custody since 19.12.2022 and none of the 31 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. Hence, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sonu Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month

before the local police station till the conclusion of the trial and furnish an

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affidavit each time that he is not involved in any crime other than the present one.

10. In addition, the petitioner (through someone else) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

July 19, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No