

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-34665-2023

Date of Decision:-28.11.2023

Irfan @ Fana.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Inderjit Singh, Advocate for the Petitioner.

Mr. Kanwar Sanjeev Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.150 dated 31.05.2021 under Sections 406, 420, 120-B IPC registered at Police Station Bilaspur, District Yamuna Nagar.

2. As per the prosecution case, the complainant Manoj had given a sum of Rs.12 lacs in cash to Jasbir @ Jassi and Jatin in the presence of Surjit Singh and Maninder Singh for the purchase of a vehicle. A further sum of Rs.4 lacs was to be paid after the owners of the vehicle had obtained the NOC etc. The vehicle had been handed over to Surjit Singh but the accused namely, Jatin, Irfan @ Fana (petitioner) and their associates had snatched the said vehicle thereby cheated the complainant of an amount of Rs.12 lacs.

3. The learned counsel for the petitioner contends that the entire amount of money was paid to Jatin who had been granted the concession of

regular bail vide order dated 29.04.2022 passed in CRM-M-47134-2021 (Annexure P-3). One Sahil had also been granted the concession of bail vide order dated 01.04.2022 passed in CRM-M-2873-2022 (Annexure P-4). The petitioner was in custody since 27.01.2023 and only 03 out of the 12 prosecution witnesses had been examined so far. Though he was an accused in 19 other cases, he had been granted the concession of bail in 17 of those. Therefore, as the case was triable by the Court of a Magistrate, he was entitled to the concession of bail in the present case as well.

4. The learned counsel for the State has filed a reply dated 23.11.2023 by way of affidavit of Mr. Mahavir Singh, DSP, Yamuna Nagar in court today, which is taken on record. While referring to the said reply he contends that the petitioner is an accused in as many as 19 other cases. Though he has been granted the concession of bail in 17 of those, however, the criminal antecedents of the petitioner did not entitle him to the grant of bail. Nevertheless he concedes that the co-accused Jatin and Sahil have been granted the concession of bail vide orders Annexure P-3 and P-4 as also the fact that the petitioner is in custody since 23.01.2023 and only 03 of the 12 prosecution witnesses have 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-M-24033-2021(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 and his co-accused shall be adjudicated upon during the course of the trial. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses if he is granted the concession of regular bail. The co-accused of the petitioner namely, Jatin and Sahil have been granted the concession of bail by this Court. The petitioner is stated to be in custody since 23.01.2023 and only only 03 of the 12 prosecution witnesses have been examined so far. He has been granted the concession of bail in 17 of the 19 other cases registered against him. The Trial of the present case is not likely to be concluded anytime soon. Therefore, his further incarceration is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Irfan @ Fana** son of Sh. Naseerudeen is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. If the petitioner or any of his family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

11. The petitioner (or anyone on his behalf) 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 the trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 28, 2023

Vinay

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