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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : 09.01.2023

1. CRM-M-36130-2022 (O&M)

Radhey Shyam **...Petitioner**

Vs.

State of Haryana **...Respondent**

2. CRM-M-22396-2021 (O&M)

Bansi Lal **...Petitioner**

Vs.

State of Haryana **...Respondent**

3. CRM-M-5666-2021 (O&M)

Anish Jangra **...Petitioner**

Vs.

State of Haryana **...Respondent**

4. CRM-M-34284-2020

Rajpal **...Petitioner**

Vs.

State of Haryana **...Respondent**

5. CRM-M-37218-2022

Surender Kumar **...Petitioner**

Vs.

State of Haryana **...Respondent**

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.S.Rai, Sr. Advocate with
Mr. Vaibhav Sethi, Advocate and
Mr. G.S.Bedi, Advocate for the petitioner
in CRM-M-36130-2022 and CRM-M-22396-2021.

Mr. Sapan Dhir, Advocate for the petitioner
in CRM-M-5666-2021.

Mr. Vikas Bishnoi, Advocate for the petitioner
in CRM-M-34284-2020.

Mr. Sanchit Choudhary, Advocate for the petitioner in CRM-M-37218-2022.

Mr. Sukhdeep Parmar, DAG, Haryana.

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MANOJ BAJAJ, J.

Petitioners have filed these separate petitions under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.358 dated 08.09.2018 under Sections 406, 467, 468, 471, 420, 120-B and 34 Indian Penal Code, 1860, Sections 4, 5 and 6 Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 3 (2) Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 registered at Police Station Sadar, Fatehabad. The petitioners were arrested in these cases on 10.10.2018, 02.09.2019, 03.08.2019, 30.03.2019 and 07.04.2019, respectively.

The above FIR was registered on the basis of a complaint dated 28.07.2018 by complainant-Anil Sihag, wherein he alleged that thousands of fake companies are doing their business in India and one such company, namely, Future Maker Life Care Private Limited, Head Office at D.S.S. 45, Red Square Market, Hisar (Haryana) has engaged agents for sale of their products, who by alluring innocent people used to collect cash in crores from them and this activity also causes tax loss to the government. The company is engaged in illegal business and has not set up any industry, muchless to manufacture any product. The company is tied up with other companies and without purchasing any material is showing only paper transactions. The company every day receives an amount of Rs.10 crores in cash from its agents, and against it no receipt/bill is issued. In this way, all over India company used to collect approximately an amount of Rs.40 crores, and only used to issue bill relating to its products @ Rs.7500/- per person after a period of 15 days from the date of the receipt of the cash from its agents by generating Ids. The company used to give hefty refunds to its agents every month through bank accounts, and the complainant had deposited a sum of Rs.2,52,000/- cash with company, whereupon after 15 days, upon receiving IDs of other persons from complainant, it had issued different bills pertaining to its products with a promise to return an amount of Rs.5 lakhs, in a period of 24 months from the date of deposit. The complainant alleged that the company is not paying any income tax, who requested for an inquiry and on these broad allegations, the above FIR was registered.

Learned counsel representing the petitioners have argued that as per the allegations in the FIR, innocent persons were cheated on the strength of a false promise of giving them double the return of their investments in a period of two years, and further as per accusations other investors were also required to bring further investments to get their return matured. Learned counsel have pointed out that in all, there were 48 FIRs in twelve different states spread all over India, but by virtue of the order dated 12.05.2022 passed by the Hon'ble Supreme Court, all these FIRs have been consolidated in different sets for trial. According to them, majority of the FIRs have been clubbed for trial in the State of Telengana, but because of addition of offences in some of the FIRs relating to the alleged commission of offences punishable under the State Act, the trial in respect of the FIRs registered in the States of Haryana, Maharashtra and Madhya Pradesh have been kept in the respective states. Learned counsel has drawn the attention of the Court to the FIRs to submit that the offence punishable under Section 3 (2) Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 is triable by Special Court i.e. Sessions Court, therefore, the petitioners are facing trial in respect of the subject FIR at Fatehabad.

At this stage, Mr. Vaibhav Sethi, Advocate submits that in all there are five trials pending against the petitioners all over India in different states, including a separate trial at the instance of Enforcement Directorate, at Panchkula under the provisions of Prevention of Money Laundering Act, 2002. Learned counsel has pointed out that the petitioners have already been released on regular bail vide different orders in all the other trials, who are presently confined in respect of trial pending before Special Court at Fatehabad, Haryana. Mr. Sethi, learned counsel has drawn the attention of the Court to the bail orders dated 06.10.2018, 16.07.2019 and 08.04.2021 (Annexures P-8, P-9 and P-10 respectively).

During the course of hearing, learned counsel has also produced the copy of the order dated 04.11.2022 passed by Hon'ble Supreme Court, whereby the concession of regular bail has been extended to accused Radhey Shyam relating to his trial pending at Madhya Pradesh. Learned counsel for accused have stated that these accused persons have already undergone a period of more than 3-4 years, therefore, it is prayed that these accused be also released on regular bail.

The prayer is opposed by learned State counsel assisted by ASI Sajjan Kumar on the ground that the offence is serious and the entire amount has been received by M/S Future Maker Life Care Private Limited, wherein petitioner-Radhey Shyam is Chief Managing Director and his co-accused Bansi Lal is Managing Director. He submits that in all approximately ₹2900 crores were collected by the accused persons and lakhs of people have been duped of their hard earned money across the country. He submits that after completion of investigation, initially the final report was submitted on 13.12.2018, but subsequently four supplementary reports were also submitted between January, 2019 to November, 2019 and thereafter, the charges were framed on 29.11.2022. He submits that since the charges have been framed recently and despite that the prosecution has promptly examined 15 witnesses, therefore, it cannot be said that the trial will take long time to conclude.

Mr. Sukhdeep Parmar, learned State counsel has further produced the copy of the order dated 06.05.2022 passed by Hon'ble Supreme Court to contend that one of the similarly situated co-accused had gone to the Hon'ble Supreme Court for grant of regular bail, but the said prayer was declined and at the same time, the Hon'ble Supreme Court expedited the subject trial and directed to conclude it within a period of one year. According to him, the accused persons collected money illegally from the innocent investors and utilized the same for purchase of various immovable properties in their name, therefore, they do not deserve the concession of regular bail and prays for dismissal of these petitions.

At this stage, learned counsel for the petitioners have pointed out that the properties belonging the various accused persons have already been attached during trial proceedings.

This fact is also not disputed by the learned State counsel.

Upon hearing learned counsel for the parties and considering the above background, this Court finds that undoubtedly, the Hon'ble Supreme Court vide order dated 06.05.2022 while dismissing the prayer for regular bail moved by co-accused-Mukesh Tanwar issued directions to expedite the trial in the subject FIR, but at that stage, different FIRs registered in various states all over India were not clubbed. The Hon'ble Supreme Court on 12.05.2022 ordered clubbing of different FIRs. Further, during the course of hearing, there was no conflict between the rival parties that the accusation against the accused persons in all the FIRs/trials pending before different States is materially common, and the petitioners have already been released on regular bail in other connected pending trial in other States, who are confined in judicial custody only in respect of FIR No.358 dated 08.09.2018 (Annexure P-1).

Apart from it, recently the Hon'ble Supreme Court has also extended the concession of regular bail to accused-Radhey Shyam, who is also an accused in trial pending in FIR No.198/2019 registered at Police Station Neemuch Cantt, Madhya Pradesh considering his length of custody, which is approximately half of the period of maximum sentence provided for commission of alleged offences as an under trial, and similar is the custodial period of all the petitioners in this case. Thus, not only on parity the petitioners deserve the concession of regular bail, but otherwise also considering the nature of the prosecution case, which is based upon documentary evidence, coupled with the fact that the material witnesses are either victims or police officials, and presently there does not seem to be any possibility of their being won over. During the hearing of these petitions, Mr. Parmar, learned State counsel is unable to point out anything to show that in the trials, where accused have already been released on bail, they are either threatening the witnesses or otherwise hampering the trial.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petitions are allowed.

(MANOJ BAJAJ)
JUDGE

09.01.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No