

CRM-M-36405-2023 (O&M)

227

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36405-2023 (O&M)

Date of decision: August 02, 2023

Jitender Bhalla alias Vicky

....Petitioner

versus

State of U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Shiv Kumar Sharma, Advocate for petitioner.

Mr. Sumit Jain, Additional P.P. U.T., Chandigarh.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in case bearing FIR No.386 dated 13.12.2019, registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (for short 'IPC') (Section 201 IPC added later on), at Police Station Sector-17, Chandigarh.

2. Per prosecution version, complaint was lodged by Excise & Taxation Officer alleging that a fraud has been committed by one Rajeev Poonga by obtaining GST number for Dental Clinic, whereas he was carrying out work of a scrap dealer. That too, not at the disclosed address i.e. Shop No.6, Sandhu Market, Dhanas. Accused carried out transactions worth Rs.25,04,35,164/- on which tax and interest of Rs.5,10,94,466/- was due. Neither the same was paid nor he gave information about transactions. Accused had obtained said GST number in the name of M/s Vinita Enterprises which was not found existing at the above said address. An FIR was registered. During investigation, petitioner was arrested on 19.12.2022 as suspect/co-accused and is in custody ever since.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case after three years of the FIR. He also submits that petitioner was not even named in the FIR. Nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars. Only bald allegations have been leveled against the petitioner, and no document or evidence is there on record to substantively attribute any role to him. It is alleged that petitioner helped the main

CRM-M-36405-2023 (O&M)

accused in opening the fake firms. Said accused, namely Pushp Behl has been granted concession of bail by a co-ordinate Bench of this Court vide order dated 07.07.2023 passed in CRM-M-26929-2023.

4. On the other hand, learned State counsel, on instructions from Inspector Kirpal Singh, opposes the bail petition. He submits that petitioner has committed a serious economic offence. If released on bail, he might tamper with evidence and/ or influence witnesses.

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

6. On a Court query, learned State counsel submits that challan has been filed, but charges are not framed yet. Investigation is stated to be over, petitioner is thus required for any further custodial interrogation. Allegations against petitioner are a matter of trial at this stage. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for the past more than 7 months in preventive custody, being behind bars since 19.12.2022.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with the evidence as the same has already been seized by the investigating agency.

8. Offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. Petitioner is not involved in any other case.

9. It is stated that petitioner is a 40-year old person having wife and one minor daughter to look after, who are totally dependent on him as he is the only bread-winner and on his absence, they are living in sheer penury. Being a family man having responsibilities, clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from the trial proceedings.

10. Co-accused of the petitioner has already been granted bail by this Court.

CRM-M-36405-2023 (O&M)

11. 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.
12. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, 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.
13. 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.
14. 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.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 02, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No