

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-36540-2023
Date of Decision: 31.08.2023

Amit Malik

. . . . Petitioner

Vs.

State of Haryana

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.P.S. Ahluwalia, Advocate, for the petitioner.

DEEPAK GUPTA, J.

This is second petition filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No.776 dated 14.05.2022 registered at Police Station Shivaji Nagar, District Gurugram, under Sections 419, 420, 465, 467, 468, 471, 120B and 204 of the Indian Penal Code, 1860.

2. The earlier petition bearing CRM-M-22913-2023 was dismissed as withdrawn vide order dated 02.06.2023 (Annexure P4) with liberty to the petitioner to approach the trial Court for the same relief. After the order dated 02.06.2023, petitioner tried his luck before the trial Court for grant of bail, but the same was declined vide order dated 10.07.2023 (Annexure P5) and hence, this petition.

3. i) FIR was lodged on the complaint of one Rahul Yadav, as per which he was one of the complainants in another case FIR No.361 dated 24.08.2021 registered at Police Station, Sector 15, Gurugram under various provisions of law. Ashutosh Bora and Chitra Bora were in judicial custody in that case, wherein during the hearing of the bail application of Ashutosh Bora and Nitin Jha, on 18.11.2021, complainant

came to know that accused had made forged receipts of ₹5 lakh each in the name of Rahul Yadav and Ankit Singh, though they had not received any amount and that these receipts had been prepared by Chitra Bora, Nirmala Bora and Narinder Bora in connivance with each other. The said receipts were not produced before this Court at the time of filing of MOU nor before the trial Court.

ii) Matter was enquired into and the petitioner was interrogated, who admitted to have obtained ₹35 lakh from Nirmala Bora for getting the agreement done with the aggrieved party in case FIR No.361/2021. However, it was further disclosed by him that out of ₹35 lakh taken from Nirmala Bora, he had given fees of ₹25 lakh to the counsels of the aggrieved party. During further investigation, specimen signature and handwriting of the petitioner and also that of complainant-Rahul Yadav and Ankit Singh were obtained and the same were sent to FSL, Bhondsi, report of which is still awaited. Anshul Raj and Bora, who were the accused in case FIR 361/2021, were also joined in the investigation and they produced a chart, as per which ₹23,18,000/-, out of ₹35 lakh taken by the petitioner from Nirmala Bora had been given in front of the complainant and that Anshul Raj had taken ₹23,18,000/- in respect of career compensation, Ankit had taken cheque of ₹11,50,000/- and complainant Rahul Yadav had taken cheque of ₹15,50,000/- as security.

5. (i) Contention of Id. counsel for the petitioner is that petitioner is nowhere named in the FIR. No overt-act is attributed to him. He has been nominated as accused only during investigation. Recovery of ₹10 lakh has been shown from the petitioner, which the wife and other

well wishers arranged by pledging their jewellery with Muthoot Finance as evident from Annexure P7 to P10.

(ii) Ld. counsel further contends that it is yet to be established as to whether the alleged receipts were forged by the petitioner as FSL report is still awaited. Still further, it is contended that Omaar Alam Sidhiqui, Advocate, to whom the money was paid as per the statement of the petitioner has been given clean chit without obtaining his specimen signature because it is said Omaar Alam Sidhiqui, who had given receipts to the petitioner. Petitioner was acting only as a well wisher of the Bora family to arrive at a compromise between them and the complainants of FIR 361/2021.

(iii) Ld. further submits that petitioner is in custody since 29.03.2023 and the case is triable by Magistrate and so, in all these circumstances, petitioner seeks bail.

6. Ld. State counsel has opposed the bail petition by contending that as per the investigation, it is the petitioner, who had forged the receipts.

7. I have considered submissions of both the sides and have appraised the record carefully.

8. Petitioner is in custody for the last more than 5 months. Case is triable by Magistrate. The FSL report is yet to be received in order to determine as to whether the receipts in question were allegedly forged by the petitioner or not. Investigation appears to be tainted as the concerned person Mr. Omaar Alam Sidhiqui, who had allegedly given the receipts to the petitioner, has been given clean chit without even taking his specimen signature and handwriting.

9. Having regard to all the aforesaid facts and circumstances, but without commenting anything further on merits of the case, petitioner is admitted to regular bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

(DEEPAK GUPTA)
JUDGE

31.08.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |