IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 21.02.2022
Pronounced on 22.03.2023

CRM-M-39149-2022

Surender Singh Shekhawat

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Ram Singh Chaudhary, Advocate for the petitioner.

Mr. G.S. Dhillon, AAG, Haryana.

ASHOK KUMAR VERMA, J.

1. Custody certificate dated 20.02.2023, filed by learned counsel for the State is taken on record.

2. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to petitioner-Surender Singh Shekhawat, in case FIR No. 101 dated 20.02.2021 registered under Sections 420, 465, 467, 468, 471, 474, 120-B and 201 IPC at Police Station City Narnaul, District Mahendergarh.

3. The abovesaid FIR was registered on a complaint moved by complainant-Sher Singh, alleging therein that he is a farmer by occupation. On 22/23.07.2019, the complainant visited the house of one Surajbhan in connection with his personal affair and in his presence,

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Rahul S/o Surender Singh Sekhawat called Surajbhan on telephone, saying that his father was asking as to whether ₹5,00,000/- and documents were ready, so that they could come to collect the same. Surajbhan asked for two days time. Thereafter, on his inquiry, Surajbhan told the complainant that petitioner-Surender Singh Sekhawat, had acquaintance with high ups in Delhi who provide job after taking ₹7,00,000/- per child, out of which, ₹4,00,000/- have to be paid advance and remaining ₹3,00,000/- at the time of delivery of appointment letter. Surajbhan also told the complainant about his close associate, namely, Bishan who owned responsibility for this money. Later on, after meeting with said Bishan as well as petitioner-Surender Singh Sekhawat and believing their words to be true, the complainant collected requisite amount for securing job for five persons, namely, Deepak, Ravi Kumar, Ramkishan, Daan Singh and Jitender. On 30/31.07.2019, the complainant gave ₹5,00,000/- as advance money to the petitioner and his son Rahul in the presence of Surajbhan and one Devdutt near Panchayat Bhawan, Narnaul after Surajbhan handed over ₹7,00,000/- to them as advance for his own candidate. On 06.08.2019, when the petitioner informed the complainant that recruitment process had been put in motion, the complainant further gave ₹15,00,000/- to the petitioner and his son Rahul in the presence of his companions/relatives, namely, Rajpal, Sadhuram and Surajbhan at Subhash Park, Narnaul. After 4-5 days, the petitioner told the complainant on telephone that their appointment letters were ready and demanded remaining amount of

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₹15,00,000/- upon which the complainant and his relatives arranged the said amount and they along with Surajbhan, Birender and Devdutt met the petitioner and his other son Sachin in front of Panchayat Bhawan, Narnaul where Surajbhan, Birender and Devdutt gave remaining ₹9,00,000/- to the petitioner, who handed over to them three appointment letters for their three children which were duly stamped and signed by representing the same to be original. The petitioner promised to accompany them at the time of their respective joining. The appointment/joining letters were for the date of joining on 18.08.2019. The complainant also gave remaining amount of ₹15,00,000/- to the petitioner in the presence of Surajbhan, Bijender and Devdutt and received five appointment letters of five persons in similar manner from him. Later on, at the time of joining, they tried to contact the petitoiner telephonically but he did not answer their call. They even visited his house, but to no avail. During that visit, they came to know about fraudulent antecedents of the petitioner from the villagers, however, when they again went to his house on the same day, wife of the petitioner and his son Sachin assured them about genuineness of appointments and even got the petitioner to talk with them on their telephone who asked them to meet him in Rewari on 18.08.2019 at 6:00 A.M. and from there he would accompany them to the place of joining, but again, neither the petitioner met them nor picked up their call, so they returned to home with their children without joining. When they contacted their mediator-Bishan, he assured them that he would get return their money with interest. On 22.03.2020, the complainant along with Rajpal and Sadhu

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Ram, gone to the house of petitioner without informing him. During that visit, petitioner and his sons gave them one cheque bearing No. 771709 dated 26.11.2020 of ₹35,00,000/- to be drawn at State Bank of India, Branch Satnali and promised to inform them in advance after depositing sufficient funds in his account, so as to enable them to encash the aforesaid cheque, but neither the petitioner answered their mobile call nor refund their money and finally, he flatly refused to return the money. The petitioner also threatened that in case they initiated any police action against him and his companions, then he would get them killed.

4. Learned counsel for the petitioner *inter alia* contends that petitioner has falsely been implicated in the present case, in fact, he is innocent and has no concern with the alleged occurrence. There is delay of more than one year in lodging the FIR, which creates doubt about the credibility of prosecution story. There are vague and general allegations in the FIR. No time, date and place of occurrence have been mentioned in the FIR. The offences are triable by a Magistrate. Petitioner is in custody since 02.04.2021. Nothing has to be recovered from him. Despite issuance of non-bailable warrants against the complainant and other material prosecution witnesses, they are not appearing before the trial Court. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. More so, co-accused of the petitioner, namely; Sandeep has already been granted the concession of regular bail vide order dated 11.10.2021, passed by a co-ordinate Bench of this Court in CRM-M-24159-2021. Thus, it is prayed that treating the case of the petitioner on the same parity as that of his co-

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accused, he may also be released on regular bail. In support of his contentions, learned counsel for the petitioner has relied upon judgments passed by co-ordinate Benches of this Court in ***(i) CRM-M-51341-2021, Shalinder Kumar Sethi @ Tony vs. State of Punjab, decided on 01.02.2022; (ii) CRM-M-6186-2021, Sanjay Kumar vs. State of Punjab and another, decided on 18.05.2022*** and ***(iii) CRM-M-47240-2021, Dinesh and another vs. State of Haryana, decided on 21.12.2021.***

5. On the other hand, learned counsel for the State vehemently opposed the prayer for grant of regular bail to the petitioner in terms of averments made in status report dated 06.10.2022, filed by way of affidavit of Sh. Jitender Kumar, Deputy Superintendent of Police, Narnaul, District Mahendergarh. Learned counsel for the State contends that the petitioner had fraudulently obtained a huge sum of ₹35,00,000/- from the complainant on the pretext of false promise of getting a job for five persons, namely, Deepak, Ravi Kumar, Ram Kishan, Daan Singh and Jitender and handed over to them fake appointment letters duly stamped and signed by representing the same to be original and gave assurance to accompany them at the time of their respective joining. Petitioner is a habitual offender as he is also involved in two more cases of similar nature. Merely, the petitioner is in custody since long is not sufficient ground to grant him the concession of regular bail.

6. I have heard learned counsel for the parties and carefully gone through the record.

7. Perusal of the FIR shows that the complainant has levelled specific allegations against the petitioner in the present FIR. During

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investigation, it has been established that the petitioner had obtained ₹35,00,000/- from the complainant party for securing jobs for five persons, namely, Deepak, Ravi Kumar, Ram Kishan, Daan Singh and Jitender and handed over to them fake appointment letters which were duly stamped and signed by representing the same to be original. He gave them the assurance to accompany them at the time of their respective joining. Later on, at the time of joining the complainant party tried to contact the petitioner telephonically, but he did not answer their call and when they visited his house, they came to know about the fraudulent antecedents of the petitioner from the villagers. Thereafter, the petitioner gave a cheque bearing No. 771709 dated 26.11.2020 of ₹35,00,000/- to be drawn at State Bank of India, Branch Satnali and promised to inform them in advance after depositing sufficient funds in his account, so as to enable them to encash the aforesaid cheque, but neither the petitioner answered their mobile call nor refund their money and finally, he flatly refused to return the money. Thus, it is established that the petitioner and his co-accused hatched a conspiracy with each other and prepared forged and fabricated appointment letters with dishonest intention to illegally grab the money from the complainant party.

8. Even in his disclosure statement, the petitioner had admitted that he had obtained ₹31,00,000/- in cash from the complainant on the pretext of false promise of getting a job for five persons. On 03.04.2021, the petitioner suffered his second disclosure statement wherein he admitted that he got prepared the forged joining letters from co-accused

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Sandeep, who is running a printing press at Mahavir Chowk, Narnaul. Co-accused-Sandeep, had also suffered a disclosure statement wherein he had admitted his involvement in the commission of crime along with the petitioner and disclosed that he had prepared forged joining letters by affixing fake stamps over the same. He also admitted that the petitioner had paid to him ₹1,000/- for printing of each joining letter.

9. So far as, the contention of learned counsel for the petitioner qua treating the case of petitioner on the same parity as that of his co-accused/Sandeep, who had already been granted the concession of regular bail vide order dated 11.10.2021, passed by a co-ordinate Bench of this Court, is concerned, the benefit of parity cannot be extended in favour of the petitioner because he had received huge amount from the complainant.

10. Moreover, the antecedents of the petitioner are also not good as he is a habitual offender and is involved in several cases of similar nature that he had cheated some other innocent persons and obtained money from them on the false pretext of getting a job. It has been observed by the Hon'ble Supreme Court in ***Gudikanti Narasimhulu vs. Public Prosecutor, High Court of A.P, (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. Merely because the petitioner is behind the bars for more than 1 year and

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10 months and trial is not likely to conclude in near future, are no grounds for grant of regular bail to the petitioner. Hon'ble Supreme Court in ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav (SC), Law Finder Doc Id # 69139,*** has considered this issue and observed as under:-

> *"13........In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

11. Needless to say, such type of cheating is rampant in our society and is often adopted by fraudsters and unscrupulous persons by usurping hard earned money of innocent people. This has become a cakewalk to amass wealth illegally over night which needs to be curbed to save the innocent people with an iron hand.

12. The facts and circumstances of the judgments relied upon by learned counsel for the petitioner are quite distinguishable from the facts

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of the present case because every case has its own peculiar facts and circumstances. Therefore, no benefit of the same, whatsoever, can be given to the petitioner.

13. Keeping in view the overall facts and circumstances of the present case, the chain of events in commission of offences as depicted in the prosecution story and having regard to the seriousness of the allegations of fraud and cheating and coupled with the antecedents of the petitioner as he is involved in several FIRs of similar nature, I do not deem it a fit case for grant of concession of regular bail to the petitioner. Hence, the present petition is dismissed.

14. Any observation made here-in-above is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

22.03.2023 **(ASHOK KUMAR VERMA)**
rishu **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether Reportable **Yes/No**

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