

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38782-2023 (O&M)

Date of decision: 05.10.2023

Sajjan KumarPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashok Sharma, Advocate and
Mr. Hitendar Mahalwal, Advocate,
For the petitioner.

Ms. Svaneel Jaswal, Additional A.G., Haryana.

ARUN MONGA, J. (ORAL)

CRM-32884-2023

Application is allowed, as prayed for, subject to all just exceptions.

Main case

Following the denial of bail by the learned trial court, the petitioner is now before this court seeking his release as an undertrial in a case with FIR No. 300 dated 10.07.2023, registered under Sections 420 of the Indian Penal Code, 1860 (IPC), and Section 63 of the Copyright Act at the Badshahpur Police Station in Gurugram.

2. The brief facts of the prosecution's case are that on 10.07.2023, complainant J.S. Ahluwalia, an authorized person from Agarwal Packers and Movers Ltd. (APML), filed a written complaint at the police station. The complaint stated that Deepak Kaushik, with dishonest and fraudulent intent to cheat, was operating and misrepresenting the public by falsely using APML's name, logo, Chairman Shri Ramesh Agarwal's picture, GST No., Toll-free number, watermark, and website name. Numerous complaints of cheating and impersonation had been received by APML against this company. The accused and the company were creating a fake impression by impersonating APML and issuing documents with their logo, IDs, website address, toll-free number, and watermark. This dubious act had a detrimental impact on the goodwill and reputation of the

complainant's company. The fake packers and movers ran a large-scale racket with the intent to cheat the innocent public by impersonating APML. The complainant prayed for legal action against the accused persons. The petitioner was arrested on 25.07.2023 and has been in custody since then.

3. Learned counsel for the petitioner argues that the petitioner has no connection with the alleged offense. He had no relation or connection with Deepak Kaushik. The prosecution alleges that the petitioner, in collusion with co-accused Lalit Sharma, used the name of the complainant's company. However, the petitioner was running a company named Vineet Roadline, and thus, he had no association with the complainant's company or Lalit Sharma. The petitioner claims to have been falsely implicated in the present case. He further submits that Lalit Sharma is his nephew, but they do not have any business relations.

3.1 He further submits that the petitioner is not required for further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses. The petitioner is not involved in any other case.

4. On the other hand, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. She submits that the allegations against the petitioner are serious. However, she admits that no other case is pending against him.

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

6. In response to a query from the Court, under instructions from ASI Hemant, the learned State counsel informs that the petitioner has been interrogated and currently confined in judicial custody and is not required for custodial interrogation.

7. At this stage, allegations against the petitioner are a matter of trial. Commencement/conclusion of the trial is likely to take a long time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since July 25, 2023, for more than 02 months.

8. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. The offense allegedly committed by the petitioner is non-violent in nature, and in that sense, his release on bail does not pose a threat to society at large by committing any violent crime.

9. The petitioner is stated to be a 40-year-old family person and is the sole breadwinner of his family members. They are living in sheer penury in his absence. He has already lost his livelihood due to prolonged incarceration. The petitioner is not a flight risk in any manner, given that he has a family to look after, has a fixed abode, and has a clean record.

10. 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.

11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned Illaqa Magistrate/Duty Magistrate, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

12. In case, petitioner is found 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.

13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

05.10.2023
vandana

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