

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

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**CRM-M-40950-2022 (O&M)
Decided on : 01.02.2023**

Mahipal

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Mohan Singh Rana, Advocate
for the petitioners.

Mr. Pawan Kumar Jhanda, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner, namely, Mahipal, who has been booked for having committed the offences punishable under Sections 381, 420, 467, 471 and 120-B IPC, in case FIR No. 706 dated 22.11.2021, registered at Police Station Sadar Gurugram, District Gurugram.

Learned counsel for the petitioner submits that allegation against the petitioner is that he presented one cheque bearing No. 274846 dated 08.09.2021 of Rs. 46,22,000/- in favour of Diksha Enterprises and according to the complainant, he got stopped the payment by informing the bank.

After two days, i.e. on 10.09.2021, same cheque was presented for its clearance. This time again, complainant got to know of the presentation of the cheque and he immediately, sent a required message for

stopping of the payment against the said presented cheque. Accordingly, bank immediately freezed the account of Diksha Enterprises and thus, petitioner was involved in the said fraud.

On an inquiry made by the complainant, his signatures over the cheque was found to be forged.

Learned counsel for the petitioner further submits that petition is aged about 45 years and has never been found involved in any other case of similar nature.

Said fact has been confirmed by learned State counsel also, after seeking necessary instructions from ASI Bir Singh.

Counsel for the petitioner further argues that investigation has been completed and final report has been submitted to the Court and petitioner being inside jail for last more than nine months (since 18.05.2022), no purpose would be served to the prosecution by keeping him inside jail. Moreover, petitioner is not in a position to influence the witnesses because, the case would be more depending upon the documentary evidence.

While countering the arguments addressed by counsel for the petitioner, Ld. State counsel submits that the petitioner is involved in a serious crime of fraud and such crimes are on increasing trend now a days in the society. Faith and belief of the bank account holders, also get eroded with such examples. Thus, concession of bail should not be granted to the petitioner.

After hearing both the sides and considering the circumstances that investigation has been concluded and final report has been submitted; no financial loss has been caused to the complainant or to any other person; accused has failed in drawing any financial gain by presenting the said cheque in question; case is triable by the Court of learned Magistrate;

petitioner is inside jail since 18.05.2022; case is more depending upon the documentary evidence, I do not find any reason to keep the petitioner inside jail for an indefinite period, when time of completion of trial is not known to anyone. Therefore, present petition is **allowed**.

Accordingly, petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

However, it is made clear that in future if the petitioner is found involved in any case of similar nature, respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioner in present case.

Disposed of.

(SANJAY VASHISTH)
JUDGE

01.02.2023

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Whether speaking/reasoned: *Yes/~~No~~*
Whether Reportable: *Yes/~~No~~*