

227

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40193-2023 (O&M)

Date of decision:04.10.2023

Dadu Malhotra

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manoj Kumar Taya, Advocate,
For petitioner.

Mr.Karan Garg, AAG, Haryana.

Mr. Jitender Malik, Advocate,
For complainant.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an undertrial in a case bearing FIR No.748 dated 20.08.2022, registered under Sections 406, 420 and 506 of Indian Penal Code, 1860 (for short 'IPC'), at Police Station, Karnal City, District Karnal.

2. FIR proceedings are on the basis of a police complaint alleging fraudulent activities by the petitioner. He promised to secure a government job in the Railway Department for the complainant, in exchange for a sum of Rs. 13,00,000/-. However, when the complainant discovered that the petitioner had a history of fraudulent activities and several cases were pending against him, he demanded the return of his money. The petitioner, in response, began providing excuses. A community meeting was held on May 26, 2022, during which the petitioner issued a cheque dated June 10, 2022, for Rs. 13 lakh to the complainant. Unfortunately, this cheque bounced, confirming the complainant's suspicion that he had been deceived by the petitioner. Petitioner was arrested on May 25, 2023. He has been in custody ever since.

3. Learned counsel for the petitioner's contends that the petitioner was granted interim anticipatory bail on September 13, 2022. The petitioner though fully

cooperated with the investigation and yet, his bail petition was dismissed on May 22, 2023, resulting in his subsequent arrest on May 25, 2023. Furthermore, the petitioner's counsel argues that the complainant alleged that he paid Rs.7,00,000 through a cheque, which was supposedly given to the petitioner. Nonetheless, a review of the account statement reveals that the complainant deposited this amount into his own account on November 20, 2021, and withdrew it in cash on the same day, implying that the entry was manipulated. The complainant, with an MBA background and previous experience in the banking sector, was well aware that he was ineligible for the job in question, as it was exclusively meant for Railway employees. Despite this knowledge, he accused the petitioner in an attempt to obtain money, suggesting that he has been falsely implicated in this case.

3.1. Furthermore, the petitioner's counsel argues that the petitioner is not required for further custodial interrogation, as there is nothing to suggest that he will tamper with evidence or influence prosecution witnesses. Trial is progressing slowly, with none of the 16 prosecution witnesses having been examined yet.

4. On the contrary, the state counsel opposes the bail petition, asserting that the petitioner has committed a serious offense. If released on bail, there is a risk that he may commit similar crimes, evade trial, tamper with evidence, or intimidate witnesses. The state counsel also emphasizes that the petitioner is a habitual offender with two other pending cases and additional complaints filed against him.

5. Having heard both sides, I am of the view that it is essential to remember that bail allows an accused individual to maintain their freedom until their guilt or innocence is determined in a court of law. The allegations against the petitioner are currently a subject of trial. Meanwhile, the petitioner has already spent over four months in preventive custody since May 25, 2023.

6. The petitioner is being held in custody based on an unsubstantiated suspicion that he may tamper with evidence or influence witnesses if released. The

offense alleged against him is non-violent in nature, and therefore, his release on bail does not pose a threat to society at large in terms of violent crimes.

7. The petitioner is a 36-year-old family man and the sole breadwinner of his family, which is currently living in poverty in his absence. His prolonged incarceration has already cost him his livelihood. Moreover, given that he has a family to support and a fixed place of residence, he is not a flight risk in any way.

8. 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.

9. Accordingly, petitioner is ordered to be released on bail, if not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of Ld. 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.

10. 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.

11. 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.

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

(ARUN MONGA)
JUDGE

04.10.2023
vandana

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