

CRM-M-41995-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41995-2023 (O&M)

Date of decision: August 29, 2023

Subash

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Amritpal Singh Gill, Advocate for petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in a case bearing FIR No.37 dated 15.05.2023, registered under Sections 420 and 120-B of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, SadarMalout, District Sri Muktsar Sahib.

2. Per FIR, complainant Gurnam Singh stated that marriage of his son, namely, Kulwinder Singh was fixed with Manpreet Kaur. Co-accused, namely Dharampal, who acted as a mediator in this marriage, introduced the complainant with Satwinder Singh, Manpreet Kaur and one old aged lady at Ludhiana. Thereafter, said Manpreet Kaur made a conference call to the complainant and demanded money. It was alleged that Dharampal along with co-accused used to dupe innocent people on the pretext of false marriage. In this way, Dharampal along with other co-accused duped the complainant of Rs.7,50,000/-. In the course of investigation, petitioner was arrested as a suspect on 16.05.2023 and he suffered disclosure statement that he took an amount of Rs.2 Lakh being a mediator of the marriage.

3. Learned counsel for petitioner submits that petitioner was known to complainant and was helping him in finding a suitable match for his son. However, when co-accused cheated the complainant on the pretext of marriage of his son with co-accused, petitioner was also roped in on the basis of false allegations. He further submits that it is nowhere asserted that petitioner is a part of any gang or demanded any money.

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3.1. Learned counsel for petitioner also contends that co-accused of the petitioner, namely, Dharampal Singh, who is the prime accused, has already been granted concession of bail by this Court vide order dated 18.08.2023 (Annexure P-3) passed in CRM-M-39611-2023, while petitioner is languishing in jail.

3.2. Learned counsel further urges that nothing is to be recovered from the petitioner and no useful purpose would be served by keeping him behind bars. Petitioner is not involved in any other case.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. Petitioner along with his co-accused duped a huge amount from the complainant. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses. He however, does not controvert the factual position regarding grant of concession of bail to the co-accused.

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

6. On a Court query, learned State counsel, on instructions from ASI Sukhpal Singh, submits that challan was presented on 10.07.2023 and charges are yet to be framed. Investigation is complete *qua* petitioner and he is thus not required for custodial interrogation. Allegations against petitioner are a matter of trial at this stage. There are total 13 witnesses of prosecution. Conclusion of the trial is likely to take quite some time as the same is proceeding at a snail pace. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner has already been languishing in jail for more than 03 months, being in custody since 16.05.2021.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

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8. Be that as it may, offence allegedly committed by petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime.
9. It is stated that petitioner is a 43-year old agriculturist and married person having family to look after. Being family man and having fixed abode and clean antecedents, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
10. Co-accused of the petitioner is stated to have been granted concession of bail, as aforesaid.
11. 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.
12. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned 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.
13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing 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

August 29, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No