

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43707-2023
DECIDED ON: 20.10.2023

SHARANJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishayjeet Singh Rishi, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 83, dated 02.08.2013 (Annexure P-1), under Sections 420, 419, 406, 467, 468, 471 of the IPC, registered at Police Station C-Division, District Amritsar City (Punjab).

Learned counsel for the petitioner submits that the petitioner is doing the business under the name and title of M/s Shiva Sales Corporation at Amritsar and has been falsely implicated in the present case as no offence under Sections 419, 420, 406, 467, 468, 471 IPC is made out. He further made valiant attempt to strengthen his arguments urging that under the Special Act i.e., GST/Punjab VAT Act 2005, FIR cannot be registered under these provisions of IPC for which there is a categoric mechanism to deal within the Special Act of 2005.

Learned State counsel has produced the custody certificate, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 11 months and 11 days. He seeks dismissal of the instant petition by

indulging in creating bogus entries of transactions of oil cake/caustic soda/caustic soda liquid/edible oil/non-edible oils to the dealers of Himachal Pradesh and on that account the offence of Sections 419, 420, 406, 467, 468, 471 IPC is made out. He further argues that the provisions of VAT Act, 2005 are not in derogation but in addition to the Indian Penal Code and by no stretch of imagination, it can intend to obsolete the provisions of IPC especially in the light of the fact considered in the case in hand.

Learned State counsel further informs the Court on instructions from ASI Harjinder Singh that only two witnesses have been examined out of total 17 prosecution witnesses before the trial Court.

Be that as it may, having considered the custody period of 11 months and 11 days, as is evident from custody certificate, which also demonstrates that the petitioner is not involved in any other case of any kind to mean his antecedents to be clean, who is a first time offender, though has caused financial loss as per the allegations, to the exchequer and has also suffered incarceration of almost 1 year.

This Court has also to borne in mind that investigation is complete, nothing is to be recovered as most of the material is documentary in nature, which is already in the custody of the prosecution.

Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that in all probabilities the trial will certainly take long time, as can be inferred from the fact that out of 17 prosecution witnesses, only 2 have been examined so far and also that no useful purpose would be served by keeping the petitioner behind the bars for indefinite period, as 'bail is a rule and jail is an exception' otherwise, it would also violate the principle of right to speedy trial and expeditious disposal under Article 21 of Constitution of India, as

passed by the Apex Court in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.*

In light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

(SANDEEP MOUDGIL)
JUDGE

20.10.2023

Poonam Negi

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>