

(225) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49769-2022

Date of Decision: 10.01.2023

SANJIV KUMAR

... Petitioner

Versus

STATE OF PUNJAB & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amandeep Saini, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.135 dated 22.03.2022 (Annexure P-1) registered under Sections 420, 465, 467, 468, 471, 482, 120-B of IPC, 1860 at Police Station Sohana, SAS Nagar, Punjab.

2. The present FIR came to be registered with the allegations that Sanjeev Kumar (petitioner) son of Jarnail Kumar had fraudulently prepared a GPA of plot No.88, Sector-80, SAS Nagar, Mohali of Hindustan Steelworks and Construction Pvt. Ltd. in his name by affixing fake stamps and signatures of the officials of the aforesaid company after which he in connivance with Amit Kapoor and Rahul Ramesh Sood entered into an agreement to sell of the aforesaid plot with the complainant and obtained three cheques worth Rs.1 crore. The said cheque amount had been deposited in a fake bank account of

the company at Moga and was withdrawn by Sanjeev Kumar thereby cheating the complainant to the tune of Rs.1 crore.

During the course of investigation, Rahul Ramesh Sood was arrested on 02.05.2022 and suffered his disclosure statement that Sanjeev Kumar had transferred a sum of Rs.15 lakhs and Rs.1,30,000/- to his account at Panchkula along with Rs.2 lakhs in cash and out of the said amount he had given a sum of Rs.4,50,000/- to one Mehma Singh (since granted bail vide order dated 27.10.2022 passed in CRM-M-30060-2022), Rs.4 lakhs to Dilbag Singh and Rs.4 lakhs to Daljit Singh alias Bittu on the asking of Sanjeev Kumar. Certain other facts had also been disclosed in the said statement.

Pursuant thereto, the Mehma Singh was arrested on 06.05.2022 and suffered his disclosure statement admitting his involvement in the commission of the offences.

Sanjiv Kumar was arrested on 26.06.2022 and got recovered a computerised stamp, stamp papers and rubber stamp signatures of different persons. He also disclosed the manner in which the offence was committed and stated that the agreement had been entered into with the complainant-Kulbir Singh Gabba for a sum of Rs.9 crores. He disclosed the names of the persons who had received various amounts from him from time to time.

Similarly, the accused Dilbag Singh was arrested on 29.06.2022 and suffered his disclosure statement reiterating the version of Sanjiv Kumar.

Accused Daljit Singh alias Bittu, Amit Kapoor, Gurpreet Singh and Amarjeet Singh could not be arrested and therefore, they were placed in Column No.2 of the report under Section 173 Cr.P.C. and the investigation

qua them was pending. Subsequently Gurpreet Singh and Amarjit Singh have been granted the concession of interim anticipatory bail vide order dated 19.12.2022 passed in CRM-M-43832-2022 and CRM-M-48489-2022.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The complainant has used his political contacts and was harassing the petitioner. In fact, a civil dispute has been converted into a dispute of criminal nature. The petitioner has been in custody since 26.06.2022 and the challan already stands submitted. As none of the 11 prosecution witnesses have been examined so far, the Trial of the present case was not likely to be concluded anytime soon. The case is otherwise triable by the Court of a Magistrate. Therefore, the further incarceration of the petitioner was not required.

4. On the other hand, the learned State counsel contends that the petitioner is the main accused. He received a sum of Rs.1 crore in a fake bank account opened by him and withdrew the same. In fact, the Bank has got registered another FIR against him for opening of a fictitious account as well in which the petitioner is in custody. Therefore, the serious nature of the allegations do not entitle the petitioner to the grant of regular bail. He however, does not dispute the fact that none of the 11 prosecution witnesses have been examined till date and that the petitioner is a first-time offender.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the petitioner has been in custody since 26.06.2022. None of the 11 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded in the near future.

One Mehma Singh co-accused of the petitioner has been granted the concession of regular bail by this Court vide order dated 27.10.2022 passed in CRM-M-30060-2022. Similarly, two co-accused of the petitioner namely, Gurpreet Singh and Amarjit Singh have been granted the concession of interim anticipatory bail by this Court vide order dated 19.12.2022 passed in CRM-M-43832-2022 and CRM-M-48489-2022.

7. The case is triable by the Court of a Magistrate and this Court in case bearing ***CRM-M-24033-2021(O&M)*** titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab Decided on 31.08.2022*** has held that in cases triable by the Magistrate unless there are serious allegations of accused absconding from trial, or tampering with the evidence, bail should be declined only in exceptional circumstances. In the present case, there is nothing specific which has been pointed out to suggest that the petitioner was likely to abscond from justice or tamper with the evidence in case he is granted the concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sanjiv Kumar son of Jarnail Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

10.01.2023

JITESH

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