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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49229-2023
Date of decision: 19.10.2023

PRADEEP CHAUHAN

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. R. S. Rai, Senior Advocate with
Mr. Farhad Kohli, Advocate for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. G. B. S. Gill, Advocate for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.220 dated 04.06.2016 (recorded as 03.06.2016 in the learned ASJ, Gurugram's order dated 16.09.2023), under Sections 420, 467, 468, 471 and 120-B of the IPC, registered at Police Station Pataudi, District Gurugram, Haryana.

2. The present FIR was lodged on the basis of fact-finding inquiry made on the representation of one Anjana Kaushal and five others for commission of offence relating to forgery and fabrication in the judgment and decree dated 01.04.2013 passed in a civil suit and thereafter, the complaint was

filed with the police which resulted in the lodging of the FIR. The allegations were that the petitioner and the complainant are the family members and in a civil suit when decree was passed, there had been a fabrication of decree and plaint and on the basis of the aforesaid allegations, the present FIR was lodged under Sections 420, 467, 468, 471 and 120-B of the IPC.

3. The present FIR was lodged in the year 2016 and the petitioner filed a petition before this Court for grant of anticipatory bail, which was dismissed by a Coordinate Bench of this Court and thereafter, he filed an SLP assailing the aforesaid dismissal of anticipatory bail before the Hon'ble Supreme Court. Before the Hon'ble Supreme Court, the petitioner was granted interim relief vide order dated 03.10.2018 (Annexure P-6). Thereafter, the police although continued with the investigation process but the challan was not presented and thereafter when the matter came up for hearing again before the Hon'ble Supreme Court on 14.02.2023, the same was disposed of vide Annexure P-7. The following order was passed by the Hon'ble Supreme Court:-

“We have heard learned counsel for the parties.

By an order dated 03.10.2018 the following order was passed:

“SLP (Crl.) No.6911/2018

Issue notice.

SLP (Crl.) 6946/2018

Issue notice.

In case the petitioner is arrested in connection with FIR No. 220 dated 03.06.2016 registered at Police Station Ptaudi, District Gurgaon (Now Gurugram), he shall be released on bail on his executing a bond to the tune of Rs. 5,00,000/ (Rupees Five Lakhs) with two solvent sureties to the like amount, to the satisfaction of the Trial Court.

Counter affidavit has been filed by the respondent way back in the year 2019 and it was a specific averment made that the charge sheet could not have been filed for the reason that the petitioner was not cooperating in the investigation and his specimen signature was demanded and letter was sent to him on 12.01.2019 followed by 15.01.2019 and the Investigating officer was informed by his son that his father is protected by the Court so there is no occasion to appear. The specific statement has been made in para 11 of the counter affidavit filed by the respondent.

No rejoinder/satisfactory explanation has been tendered so far.

We find no reason to continue the interim order dated 03.10.2018 passed by this Court granting the petitioner the benefit of pre-arrest bail. Consequently, the interim order dated 03.10.2018 stands vacated and the respondents are at liberty to proceed in accordance with law.

List the matters after a month.”

4. A perusal of the same would show that the reference was made to the counter affidavit which was filed by the State in the year 2019, in which specific averment was made that the charge-sheet could not have been filed for the reason that the petitioner was not cooperating with the investigation process and his specimen signatures were demanded and letter was sent to him on 12.01.2019 followed by 15.01.2019 and the Investigating Officer was informed by his son that his father is protected by the Court so there is no occasion to appear. In view of the aforesaid position, the interim order granted to the petitioner in the year 2018 was vacated and it was directed that the respondents are at liberty to proceed in accordance with law. Thereafter, the petitioner was

arrested on 23.02.2023. Challan was thereafter presented on 19.05.2023 after the completion of the investigation.

5. Mr. R. S. Rai, learned Senior Advocate assisted by Mr. Farhad Kohli, Advocate appearing on behalf of the petitioner submitted that although the allegations against the petitioner were that he had allegedly fabricated the decree of the Court, some other documents and the plaint but he is still under trial and the investigation of the case is completed and now the case is based upon documentary evidence and he has already faced incarceration for more than 7 ½ months. He further submitted that the present is a case which is triable by Magistrate and it will take long time for the trial to conclude and considering the aforesaid facts and circumstances of the present case, the petitioner may be considered for the grant of regular bail. He also submitted that the petitioner has clean antecedents and he is not involved in any other case.

6. On the other hand, Ms. Harpreet Kaur, AAG, Haryana submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the investigation of the present case has already been completed and challan has also been presented before the competent Court after the petitioner was arrested by the police. She further submitted that the allegations against the petitioner were serious in nature with regard to the fabrication of decree, plaint and some other documents.

7. Mr. G. B. S. Gill, Advocate appearing on behalf of the complainant submitted that in pursuance of the decree which was allegedly fabricated by the petitioner, even mutation was sanctioned and the property was also sold and therefore the petitioner is not entitled for the grant of regular bail.

8. I have heard the learned counsel for the parties.

9. This Court on the last date of hearing i.e. 16.10.2023 had directed the Commissioner of Police, Gurugram to be present in the Court because of the reasons that it was so argued by the learned Senior Advocate appearing on behalf of the petitioner that before the Hon'ble Supreme Court the State had taken a stand that the petitioner was not cooperating with the investigation process by not giving specimen signatures as demanded by them but in the challan it has been so stated that the specimen signatures were already taken way back on 06.03.2020 and then again on 28.08.2020 and thereafter an affidavit was filed before this Court by the Assistant Commissioner of Police, Staff Officer to Commissioner of Police, Gurugram and the same position has been reiterated. It was due to this dichotomous factual position that this Court had therefore asked the Commissioner of Police, Gurugram to be present in the Court today along with the entire record including the affidavit filed by the State before the Hon'ble Supreme Court.

10. The Commissioner of Police, Gurugram has come present in the Court and Ms. Harpreet Kaur, AAG, Haryana on instructions from Commissioner of Police, Gurugram has stated there was no mis-statement made by the State before Hon'ble Supreme Court and while referring to the order passed by Hon'ble Supreme Court vide Annexure P-7. The Hon'ble Supreme Court had decided the SLP on the basis of the counter affidavit filed by the State in the year 2019 that the petitioner has not cooperated with the investigation process by not giving specimen signatures, whereas as per the challan and affidavit filed by the Assistant Commissioner of Police, Gurugram, he had given the specimen signatures in the year 2020. Learned State counsel further submitted on specific instructions from the Commissioner of Police,

Gurugram that after the year 2019, the State has not filed any affidavit before the Hon'ble Supreme Court and therefore, there was no mis-statement in any Court of law.

11. So far as considering the present bail petition is concerned, the present is a case which is triable by Magistrate. The petitioner has already faced incarceration for more than 7 ½ months and investigation of the case has already been completed and challan has also been presented before the competent Court. The allegations are pertaining to fabrication of documents of the Civil Court and some other documents.

12. Therefore, considering the aforesaid totality and circumstances of the present case and considering the aforesaid incarceration suffered by the petitioner and also the fact that the present case is triable by Magistrate, this Court deems it fit and proper to grant regular bail to the petitioner.

13. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

14. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

19.10.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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