

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51107 of 2022(O&M)
Date of Decision: 18.04.2023

Rahul Raghunath Sawant

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Aman Bansal, Advocate
For the petitioner.

Mr. Vishal Kashyap, DAG Haryana.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 251 dated 26.07.2021, registered under Sections 420 IPC and Section 66(D) of Information Technology Act at Police Station Sector-31, Faridabad, to which offences under Sections 419, 467, 468, 471, 34 and 120-B IPC and Sections 66-C and 85 of Information Technology Act were added lateron.

The allegations in nutshell are that Krishan Dutt Vashisht AGM Legal, Shahi Exports Private Limited Faridabad lodged a complaint to the police wherein he alleged that Shahi Exports Private Limited is a garment manufacturer and exporter and for the purpose of promotion of export business, Government of India offered incentive scheme "Rebate of State & Central Taxes and Levies" (in short, RoSCTL) whereby certain percentage

of the export made by company is returned to the exporter as value licenses and the value given against the licenses could be used by the company to offset the import duties against imports made by it. The said licenses were granted by the Directorate General of Foreign Trade (DGFT), Ministry of Commerce, Government of India. The said licenses were usable and transferable, online. The keys with passwords were given by DGFT to the company for online use. The complainant came to know that said RoSCTL licenses worth Rs.27.61 crores were fraudulently transferred on 08.12.2020 to a third party namely Black Curve Incorporation, having office at Thane, Maharashtra. So, complaint was made to take action against the culprits and to recover the amount defrauded by them. During investigation the petitioner was nominated as accused and was arrested on 29.12.2021.

The counsel for the petitioner, *inter alia*, contends that the petitioner was not named in the FIR and was lateron nominated as accused to falsely implicate him in the present case. It is further submitted that the petitioner is in custody since 29.12.2021 and all the offences are triable by the Court of Judicial Magistrate Ist Class. The counsel for the petitioner further submits that the only allegations against the petitioner are that he made arrangement of space/ premises from where Lalit Kumar Jain was running fake company under the name of Black Curve Incorporation. There are also allegations that for providing the said space/ premises which was taken on rent by aforesaid Lalit Kumar Jain, petitioner took certain commission. The counsel for the petitioner further submits that similarly situated co-accused Bhushan Kishan Thakur who was also not named in the FIR is already granted concession of regular bail by the Court of learned Sessions Judge, Faridabad vide order dated 15.04.2023 and the copy of the

said order is taken on record. The counsel for the petitioner submits that it will take considerable time for the trial to conclude. So, a prayer is made that the petitioner be released on bail.

The present petition is resisted by the State counsel who, on instructions from Inspector Basant Kumar, submits that the petitioner colluded with main accused Lalit Kumar Jain and arranged space/ premises on rent for running of fake company by said Lalit Kumar Jain. The State counsel further submits that the petitioner being from criminal background also took protection money from said Lalit Kumar Jain and he also helped Lalit Kumar Jain in preparing fake rent deeds. The State counsel further submits that the petitioner was arrested on 29.12.2021 and during investigation he got recovered the concerned rent deeds and some other documents relating to present case. The State counsel has not disputed the fact that after completion of investigation the challan has been presented but the case is at its initial stage.

I have considered the submissions made by counsel for the parties.

During arguments, it has been transpired that on account of transfer of RoSCTL licenses, no financial loss was suffered by anyone. Admittedly, the petitioner is not named in the FIR and the only allegations against him are that he took commission for providing some premises on rent to Lalit Kumar Jain for running fake company namely Black Curve Incorporation on the basis of fake rent deeds and the petitioner also used to take protection money from Lalit Kumar Jain. The petitioner is in custody since 29.12.2021. At present, no other criminal case is pending against the petitioner. Co-accused Bhushan Kishan Thakur who was also not named in

the FIR is already granted regular bail by the Court of Sessions Judge, Faridabad vide order dated 15.04.2023. The State counsel has not disputed the fact that all the offences are triable by the Court of Judicial Magistrate Ist Class and that it will take considerable time for the trial to conclude. In the given circumstances, no purpose is going to be served by prolonging the judicial custody of the petitioner.

Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

18.04.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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