

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51702-2023 (O&M)

Date of decision:17.10.2023

Harmeet SinghPetitioner
Versus
State of HaryanaRespondent

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present: Mr. Pardeep Bajaj, Advocate,
For the petitioner.

Ms. Svaneel Jaswal, Additional A.G., Haryana.

ARUN MONGA, J. (ORAL)

Following the denial of bail by the learned trial court, the petitioner is now before this court seeking his release as an undertrial in a case with FIR No.0726 dated 25.09.2019, registered under Sections 420, 406, 467, 468, 471 of the Indian Penal Code, 1860 (IPC), at Police Station, Civil Lines, Karnal, District Karnal.

2. An FIR was registered on a complaint by the Manager of the State Bank of India against sixteen individuals, including the petitioner. It is alleged that all the accused, with malicious intent, forged revenue documents to obtain loans and financial assistance against land that was already mortgaged with other financial institutions. The accused's modus operandi was to submit forged documents, falsely claiming that the land was free from encumbrances, even though it was already mortgaged with banks due to previously disbursed loans. The petitioner was involved in the investigation and was arrested on June 30, 2023, after his presence was secured through production warrants. He provided a disclosure statement admitting his involvement in the case. Following the investigation, a supplementary charge sheet was filed against the petitioner and co-accused Kabal Singh.

3. The petitioner's learned counsel argues that the petitioner owns approximately 40 kanals of land (equivalent to 05 acres), which is worth millions, and the total

loan taken by the petitioner is Rs. 35 lakhs at different times. The petitioner maintains that he has not committed any offense because, each time before approving the loan, the bank's lawyer verified the land records. Failure by the bank to update the mortgage entry in the records does not imply that the petitioner defrauded the bank. The FIR, in fact, was filed without conducting any preliminary inquiry, solely based on the statement of the complainant bank and behind the petitioner's back.

3.1 The petitioner's counsel further asserts that the petitioner's father approached the complainant bank, requesting a settlement of the petitioner's account under the One-Time Settlement (OTS) scheme after a loan limit of Rs. 10 lakhs had been taken, with the petitioner's father depositing a total of 5 lakhs. A copy of the OTS request dated September 27, 2023, is attached as Annexure P-4. The petitioner's intention has always been to repay the amount, as evidenced by having paid 50% of the principal amount. No specific allegations have been made against any particular person. All the offenses mentioned in the FIR fall under the jurisdiction of the Judicial Magistrate Class-I.

3.2 The petitioner's counsel further argues that the petitioner does not require further custodial interrogation. There is no likelihood of the petitioner tampering with evidence or influencing prosecution witnesses.

3.3 Additionally, the petitioner's counsel canvasses that a co-accused of the petitioner, namely, Jagdish, has already been granted bail by this Court through an order dated September 29, 2020 (Annexure P-5).

4. On the other hand, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. She submits that the allegations against the petitioner are serious. She further submits that petitioner is a habitual offender. Four other cases are pending against him however, he is on bail in those cases.

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

6. In response to a query from the Court, under instructions from ASI Bahadur Singh the learned State counsel informs that challan was filed on

26.09.2023. Investigation concerning the petitioner is complete, and he is not required for custodial interrogation.

7. At this stage, allegations against the petitioner are a matter of trial. Of the thirteen prosecution witnesses, none has been examined so far. Commencement/conclusion of the trial is likely to take a long time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since June 30, 2023, for more than 03 months.

8. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses. The offence allegedly committed by the petitioner is non-violent in nature, and in that sense, his release on bail does not pose a threat to society at large by committing any violent crime.

9. Co-accused of the petitioner has already been granted concession of bail by this Court.

10. The petitioner is stated to be a 35-year-old family person. They are living in sheer penury in his absence. He has already lost his livelihood due to prolonged incarceration. The petitioner is not a flight risk in any manner, given that he has a family to look after, has a fixed abode.

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 on his furnishing bail bonds and surety bonds to the satisfaction of learned Illaqa Magistrate/Duty Magistrate, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

13. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

14. It is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited pur-

pose of hearing the instant bail petition alone and learned trial Court shall proceed with-
out being influenced with this order.

15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

17.10.2023
vandana

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