

CRM-M-52425-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 16.10.2023

Jasbir @ Jashan

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Saurabh Sharma, Advocate for the petitioner.

Mr. Karan Garg AAG 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.480 dated 24.11.2022, registered under Sections 406, 420, 506 and 120-B of the Indian Penal Code, 1860 (IPC) and Section 12 of the Chit Funds Act, 1982 at the Pehowa (Now SadarPehowa) Police Station in Kurukshetra.

2. According to the prosecution's case, an FIR was registered on 24.11.2022, based on a complaint filed by Balwinder Singh. He alleged that his brother, Silender Singh, went to Lebanon in the year 2012. However, in 2017, his brother met the accused, Sachin, who lured him with promises that by depositing money in the Bank of Beirut under an interest scheme, the amount would double in a short span due to high interest rates. Trusting his words, the complainant's brother began giving money to accused Sachin in the hopes of obtaining higher returns. In this manner, accused Sachin, along with other accused, including the petitioner, duped the complainant's brother. He was induced to invest Rs. 1.68 crores in an interest scheme based on false promises of high returns. Consequently, an FIR was registered based on Balwinder Singh's statement. The petitioner, Jasbir, also

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known as Jashan, was taken into custody on July 05, 2023, and has remained incarcerated since then.

Firstly, the learned counsel for the petitioner argues that the petitioner's role is comparable to that of co-accused Tilak Raj, who was granted bail by this Court in an order dated July 27, 2023 (Annexure P-4) in CRM-M-21924-2023. Therefore, based on the principle of parity alone, the petitioner should be granted bail during the trial's pendency.

3.1 Furthermore, the petitioner's counsel asserts that the petitioner has no connection with the alleged financial transactions. Moreover, there is no specific allegation against the petitioner. Initially, fourteen persons were named in the complaint, perhaps merely to exert pressure, but the FIR was registered against seven persons. According to the supplementary statement of the complainant, the petitioner allegedly came once to collect money from the complainant's family.

3.2 From the allegations outlined in the FIR, it is argued that no offense is made against the petitioner, as neither any money was entrusted to him nor any money was transferred to his account. The allegations leveled by the complainant are solely against the main accused, Sachin Dhiman.

3.3 Furthermore, the FIR was registered after a delay of more than two years and four months, as the incident took place in July 2020, and the FIR was registered on 24.11.2022. The petitioner's counsel further submits that all the offenses mentioned in the FIR are triable by a Magistrate.

3.3 Learned counsel submits that wife of the petitioner is pregnant of more than eight months and there is no member in the family to take care of her.

3.4 The petitioner has been in custody since July 05, 2023. No recovery has been made from the petitioner, and no specific role has been attributed to them. The petitioner's counsel further argues that the petitioner is not required for further custodial interrogation and that there is no likelihood of the petitioner

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tampering with evidence or influencing prosecution witnesses. The petitioner is believed to be entirely innocent and falsely implicated in the case.

4. The learned State counsel opposes the petitioner's bail application, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that huge amount is involved in this case. There are serious allegations against the petitioner. The State counsel does not dispute that the co-accused, Tilak Raj, has also been granted bail by this Court. However, he admits that no other case is pending against the petitioner.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner is complete. At this stage, the allegations against the petitioner are subject to trial. The trial's progress has been slow, and it is anticipated to take a considerable amount of 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 July 05, 2023, for almost three months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. Petitioner is stated to be 29 year old person with the additional duty to take care of his pregnant wife. Having clean antecedents and fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Co-accused Tilak Raj has already been granted the concession of bail by this Court. I see no reason as to why petitioner should not be met with similar treatment.

10. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

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11. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
12. 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.
13. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 16, 2023
Ajay

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