

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

248/212 (2 cases)

Date of decision : 09.11.2023

1. CRM-M-56288-2023

Jitender Kumar Petitioner

versus

State of Haryana Respondent

2. CRM-M-52935-2023

Sumit Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. D.S. Matya, Advocate
for the petitioner in CRM-M-56288-2023.

Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate &
Mr. Deepanshu Mehta, Adovcate
for the petitioner in CRM-M-52935-2023.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. Both these petitions are decided by a common order as the
issue involved and the impugned FIR are similar in nature.

2. Present petitions have been filed under Section 439 Cr.P.C.
for grant of regular bail to the petitioner(s) in case bearing FIR No.86
dated 24.03.2023, registered for the offence punishable under Section

**2023:PHHC:143502
2023:PHHC:143496**

IT Act, 2008 added later on) at Police Station Udyog Vihar, District Gurugram.

3. FIR came into being on the complaint made by Additional Commissioner of Income Tax, Gurugram wherein he alleged theft of personal RSA Token and misusing of 6 digit number which purportedly was used for facilitating refund of fake TDS.

4. Counsel for the petitioner(s) submit that the investigation already stands concluded as report under Section 173 Cr.P.C. stands filed on 20.09.2023. Petitioner(s) are behind bars since 20.06.2023. Majority of the witnesses are official witnesses and whole of the matter is based upon documentary as well as digital evidence and there cannot be any apprehension that the petitioner(s) shall tamper with the evidence. Thus, the custody of the petitioner(s) cannot be prolonged as punitive measure.

5. *Per contra*, counsel for the State however submit that the forgery/fraud has a wide sweep and even role of the complainant itself is under cloud and an SIT has been constituted which has widened the scope of investigation.

6. At this stage, counsel for the petitioner(s) submit that the said fact rather strengthen the case of the petitioner(s) and thus the fact of them having been made scapegoat also cannot be ruled out.

7. Without commenting on the merits of the case and keeping in view the incarceration suffered by the petitioner(s), the present petitions are allowed. Petitioners are ordered to be released on regular bail on their furnishing bail/surety bonds to the satisfaction of the Ld.

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2023:PHHC:143496

Trial Court/Duty Magistrate, concerned.

8. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.
9. A photocopy of this order be placed on the file of other connected case.

(PANKAJ JAIN)
JUDGE

09.11.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No