(224) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-63127-2023 (O&M)
Date of Decision: 20.12.2023

MAMTA

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ramnish Puri, Advocate with
Ms. Monika Tanwar, Advocate
for the petitioner.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.09 dated 08.01.2022 registered under Sections 420, 465, 467, 468, 471, 506, 120-B IPC, 1860 at Police Station Manesar, District Gurugram.

2. The brief facts of the case are that a complaint was submitted by the complainant-Monesh Israni against Parveen Yadav, Dinesh Mohan Sorkhi, Kamal Singh and other unknown accomplices and bank officials of the Axis Bank. It was alleged that the accused persons had played a fraud and had cheated him of an amount of Rs.64.49 crores on the pretext of providing tenders for construction of housing projects of the National Security Guard, Manesar by forging the documents of the office of the Director General, NSG, Manesar and by opening and operating a fake bank Account No.9110200000936255 in the Axis Bank, NSG, Manesar in the name of G.C. (Garrison) NSG, Manesar. It was alleged that the complainant was the Director and the authorised person of M/s Narain Dass R Israni Co.(P) Ltd.

In the month of September, 2021 the Directors of the complainant-company were approached by Parveen Yadav pretending himself to be an IPS Officer and the Station Commandant NSG by giving his mobile number and Aadhar Card number through Dinesh Mohan Sorkhi (granted bail vide order dated 30.05.2023 passed in CRM-M-20121-2023) who pretended to be an old friend of Parveen Yadav. Both the accused projected and allured the complainant that there were two big housing projects in NSG, Manesar and if the complainant gave a bid for the same, the work could be allotted to him. The complainant was regularly called to the NSG, Manesar campus by the two persons and they would meet in the Officers' Mess at NSG, Manesar. The accused gave a letter dated 08.09.2021 to the complainant calling for quotations for 740 Type III residential quarters and another letter dated 16.10.2021 calling for quotations for the construction of residential quarters which were received by speed post. On the basis of the representation of the accused regarding the aforesaid tenders, an earnest money of Rs.17,71,56,000/- and another amount of Rs.46,78,25,220/- were deposited by cheques in the name of Office of CG (Garrison) Station Head Quarters NSG. Both the cheques were cleared into the Account No.92102000036255 of Axis Bank, NSG, Manesar Branch. The accused provided a letter dated 22.10.2021 intimating the lowest bid (L-I) through post and acknowledged the documents. The letters of acceptance of the tender were to be received in the first week of January, 2022 along with the agreement and the letter of intent. However, Parveen Yadav accused and other co-accused stopped attending the phone calls of the complainant and when he visited the house of

Parveen Yadav, he came to know that he along with his family had left the house earlier. Thus, he had been cheated of an amount of Rs.64.49 crores.

During the course of investigation, the relevant account statements were obtained from the concerned banks. On 11.01.2022, Parveen Yadav got recovered the cars purchased by him from the proceeds of the crime. He was arrested on 13.01.2022 and got recovered some other vehicles as well. He also got recovered a cash amount of Rs.13,81,26,000/-, a fake sanction order, supply order, allotment letter, laptop and fake stamps. The documents of properties purchased by the accused Parveen Yadav from the money obtained from the commission of the offence were also recovered.

Rituraj Yadav (granted bail vide order dated 28.11.2023 passed in CRM-M-19071-2023 Annexure P-8), Dinesh Sorkhi and Mamta (petitioner) were arrested on 13.01.2022. Rituraj Yadav and Mamta got recovered jewellery purchased from the amount. Dinesh Sorkhi got recovered an agreement to sell. As per the prosecution case, the money which had been deposited in the fictitious Bank account of the NSG Manesar bearing Account No.9110200000936255 was further siphoned off into the account of M/s Koshia Enterprises Pvt. Ltd. where Rituraj Yadav and the petitioner-Mamta were the Directors.

The accused Kamal Singh and Naveen Kumar were arrested on 22.03.2022.

The report under Section 173(2) Cr.P.C. was submitted against Rituraj Yadav and the other above-named accused.

The bank account of the accused persons were frozen and during investigation, it came forth that an amount of Rs.6.09 crores of the fraud amount was lying credited in the bank account of M/s Koshia Enterprises Pvt. Ltd. and the said Company was also found to be involved in the money transferred between the accused persons.

The supplementary challan against M/s Koshia Enterprises Pvt. Ltd. was submitted on 02.02.2023.

3. The learned counsel for the petitioner contends that though she was appointed as a Director of the Company, she had been told by her husband Parveen Yadav, the main accused that she would have no role to play in the affairs of the said Company. In fact, her appointment was merely a cloak to carry on the affairs of the Company. Being a front for Parveen Yadav, all the financial transactions had actually been carried out by him and not by the petitioner. Her co-accused Rituraj Yadav had been granted the concession of bail by this Court vide order dated 28.11.2023 (Annexure P-8). As the petitioner was a lady, in custody since 13.01.2022, none of the 106 prosecution witnesses had been examined so far and her co-accused Kamal Singh, Dinesh Mohan Sorkhi and Rituraj Yadav had been granted the concession of bail, she was entitled to the concession of bail as well moreso as the case of the petitioner was triable by the Court of a Magistrate.

4. On the other hand, the learned State counsel contends that the petitioner along with her co-accused Rituraj Yadav had siphoned off the money of the complainant into the bank account of their Company M/s Koshia Enterprises Pvt. Ltd. The money was used to purchase properties, jewellery, cars and other articles. Therefore, the offence against her stood *prima facie* established. Further, she was involved in four other cases as well. Therefore, her criminal antecedents did not entitle her to the grant of bail. He,

however, concedes that the petitioner was a lady, in custody since 13.01.2022, none of the 106 prosecution witnesses had been examined so far and that three of her co-accused had been granted the concession of bail.

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

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.*"

7. In the instant case, though the allegations against the petitioner are extremely grave, the veracity of the prosecution version against the petitioner and her co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 13.01.2022 and none of the 106 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. Three co-accused have been granted the concession of bail. She is also a lady of the age of 32 years. There are no serious apprehensions expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Mamta wife of Parveen Yadav is

ordered to be released on bail on her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that she is not involved in any other crime other than the cases mentioned in this order.

10. The petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.3,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

20.12.2023
JITESH

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