

S. No.112

2023:PHHC:161872

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-63472 of 2023

Date of Decision:16.12.2023

Pardeep Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Manoj Pundir, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 482 read with Section 437(6) Cr.P.C, petitioner prays to quash/ set aside order dated 09.10.2023 (Annexure P.4) passed by learned Judicial Magistrate Ist Class, Yamuna Nagar vide which bail petition filed by the petitioner under Section 437(6) Cr.P.C has been dismissed. Under challenge, is also the order dated 22.11.2023 (Annexure P.6) passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide which revision against the afore-said order dated 09.10.2023 has been dismissed.

Petitioner also prays to order his release on regular bail in case FIR No.124 dated 14.02.2023 registered under Sections 406 & 120-B (Sections 467, 468, 506 IPC and 3 of Haryana Protection of Interest of Depositors in Financer Establishment Act, 2013 added later on) at Police Station Yamuna Nagar City, District Yamuna Nagar, Haryana.

It is contended by learned counsel for the petitioner that petitioner is in custody since 05.04.2023 and that after filing of the final report under Section 173 Cr.P.C., the charges were framed on 20.07.2023. The matter was adjourned to 03.08.2023 for recording the prosecution evidence but not even a single witness has been examined so far and that in these circumstances, petitioner is entitled to be released on bail in view of Section 437(6) Cr.P.C. Petitioner moved an

application before the trial Court for that purpose but the same was wrongly declined vide order dated 09.10.2023 (Annexure P.4). Even learned Additional Sessions Judge at Jagadhri has dismissed the revision vide order dated 22.11.2023 (Annexure P.6). Petitioner now prays for setting aside the afore-said orders and to released him on bail.

While dismissing the revision, learned Additional Sessions Judge, Yamuna Nagar, Jagadhri vide his order dated 22.11.2023 has observed as under:-

“xxx xxx xxx xxx xxx xxx

7. *A perusal of records would reveal that vide order dated 20.07.2023, charges for commission of offences under Sections 406, 420, 467, 468, 471 and 120-B IPC & Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, were framed against accused Malkeet and Pardeep Kumar (present petitioner) and thereafter, matter was posted for 3.08.2023 for prosecution evidence and on 3.08.2023, no PW was present and then matter was adjourned to 17.08.2023 and no PW was present on that date as well and then matter was posted to 31.8.2023 and on 31.08.2023, PWs, namely, Rohit, Rajpal and Ashwani came present but could not be recorded as it was stated that there were chances of compromise and the same was not objected to by the opposite side and then matter was posted to 14.9.2023 and on 14.9.2023, PWs, namely, Rohit, Rajpal and Ashwani were present but could not be examined as there was chances of compromise and same was not objected to by the opposite side and then matter was posted to 28.9.2023, but no PW was present on that date and then matter was posted to 11.10.2023. Further it is also revealed that on 4.10.2023 supplementary challan qua co-accused Hari Om and Rahul Singh was received in the trial court, which was posted for 11.10.2023 i.e. the date already fixed in the main case. Thus, it comes out that witnesses present before the trial Court could not be recorded on the*

ground that there were some chances of compromise between the parties and in the meanwhile, supplementary challan qua two other co-accused was also presented and accordingly, learned trial court observed that the trial could not be concluded within sixty days in such circumstances. As per settled law, provisions under Section 437(6) Cr.P.C are not mandatory, but directory. No doubt, the object of provisions under Section 437(6) Cr.P.C is to cut delay in the conclusion of trial, but it is equally important that the ends of justice do not suffer and accordingly, discretion has been conferred on the trial Magistrate, nevertheless, recording of reasons in writing is sine qua non while dealing with an application moved under the said provision and bail application moved under the provisions of Section 437(6) Cr.P.C can be rejected for the reasons recorded in writing. The Hon'ble Orissa High Court in the case of **Chhabi Vs. State of Orissa, 1995(2) Crimes 622**, while considering the aforesaid provision, held that the provisions of Section 437(6) Cr.P.C are for speedy trial without any unreasonable delay, but the said provision gives power to the Magistrate to deny bail even if the trial is not concluded within a period of sixty days from the date fixed for evidence and the only embargo on the Magistrate is to record its reasons. The Hon'ble High Court also observed that while dealing with a case under Section 437(6) Cr.P.C., court is not precluded from taking into consideration the nature of allegations.

xxx xxx xxx xxx xxx xxx”

Having regard to the afore-said reasons as recorded by learned Additional Sessions Judge, Jagadhri, this Court finds no illegality or perversity in the impugned orders passed by the Courts below.

Finding no merit, the present petition is hereby dismissed.

December 16, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No