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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-721-2023 (O & M)
Date of decision: 14.02.2024

Harvinder Singh @ Sonu

..... petitioner

V/s

State of Haryana

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Harmanjeet Singh Sandhu, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.668 dated 29.08.2022 under Sections 406, 420, 201, 506 IPC and Section 24 of the Immigration Act registered at Police Station Karnal Civil Lines, District Karnal.

2. The present FIR came to be registered at the instance of Gurmit Singh and reads as under:-

“Sir, brief facts of this case are as under that on dated 29.08.2022, Complaint No. 4527-Peshi Dated 07.07.2022 from Gurmit Singh Resident of Balri, after conducting inquiry by the E.O. Wing, Karnal, was received from the Office of the

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Superintendent of Police, Karnal at the Police station, the contents of the same are as under:- "To the Superintendent of Police, Karnal. Subject: Application for looting money in the name of sending abroad and regarding giving illegal threats. Sir, it is respectfully submitted that: (1) That I, Gurmit Singh son of Late Sh. Kwant Singh, am resident of Village Balri, Tehsil and District Karnal. (2) That Harwinder Singh son of Sh. Harbhajan Singh Phone No. 965359073, resident of House No. 371, Gali No.8, Gandhi Nagar, Karnal gave me greed of sending my son, Harmanpreet Singh to Australia and the matter was settled for a sum of Rs. 7.00 Lacs, out of which, I had to give Rs. 2,00,000/- firstly and the above said amount was given on dated 02.03.22 at Nirmal Kutia, Karnal, in the presence of Sahab Singh and an amount of Rs. 5,00,000/- was to be given afterwards and Harwinder Singh said that a hotel of my relative is situated in Australia and I will get the work given there and I was come in his false assurance and we gave Rs. 2,00,000/- in cash in the presence of Sahab Singh and for our satisfaction, Harwinder Singh gave a cheque of Rs. 2,50,000/- to us bearing cheque No. 000003 issued by H.D.F.C. Bank, Foosgarh District Karnal, a copy of the same is enclosed. (3) That till now, nothing has been done for sending my son to Australia and passport of my son was returned to us and according to his statement, he will not give our money of Rs. 2,00,000/-, which comes to Rs. 2,24,000/- along with interest. (4) That, now when I goes to Harwinder Singh for demanding my above said money, then he gives threats to me by saying that I will not give your money and you can do whatever you can. I have seen police many times. He gives such types of threats illegally. Therefore, it is prayed to your good self that our money along with interest may be granted to us from the above said Harwinder Singh and PAN Card of my wife, Parwinder Kaur, is also with Harwinder Singh, which may also be granted to us

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from Harwinder Singh and strict legal action may be taken against him. Thanking you very much. Applicant Sd/- Gurmit Singh son of Late Kulwant Singh”.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The story put forth by the complainant is highly improbable and false as there is no mention as to under what name the petitioner was running the Immigration and Consultancy Office. No incriminating document had been recovered from him during the course of investigation. In fact, the petitioner had borrowed a sum of Rs.50,000/- from the complainant who was running a money lending business and had signed some blank papers alongwith a security cheque. As the petitioner was unable to repay the loan, the complainant started threatening him with implication in a false case. Be that as it may, during the course of the present proceedings, some money had been returned to the complainant, though, a compromise did not fructify. As the petitioner had undergone more than 07 months' imprisonment but none of the 07 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

4. The learned counsel for the State alongwith the counsel for the complainant, on the other hand, contend that the complainant had been cheated of a huge amount of money and the offence stood *prima facie* established. Therefore, the petitioner was not entitled to the concession of bail. They, however, concede that the petitioner had undergone

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imprisonment of more than 07 months and that none of the 07 prosecution witnesses had been examined so far.

- 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. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner has undergone more than 07 months’ imprisonment and none of the 07 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. The present case is Triable by the Court of a Magistrate and no serious apprehension has been 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 upon the merits of the case, the present petition is allowed and the petitioner, namely, Harvinder Singh @

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Sonu is ordered to be released on bail to the satisfaction of the Trial Court/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 he is not involved in any other case/crime other than the case(s) referred to in the custody certificate dated 12.02.2024.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 present petition stands disposed of.

February 14, 2024
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No