

2024:PHHC:010593

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221

CRM-M-3096-2024

Date of Decision : January 25, 2024

RAMANDEEP SINGH

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr.Sandeep Singh Jattan, Advocate
for the petitioner.

Mr.Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.169, dated 08.05.2023 (Annexure P-1), under Sections 406, 420, 467, 468, 471, 506 and 34 of the IPC (Section 201 IPC added later on), registered at Police Station Barara, District Ambala.

ALLEGATIONS AGAINST THE PETITIONER

2. The gist of the allegations, as levelled against the petitioner, and, as culled out from the FIR reads as under:-

“Respected Sir, copy of complaint number 1370-PW DT 20.03.23 was received in the office of Superintendent of Police, Ambala, through post which is attached. To, Superintendent of Police, Ambala. Subject: Application against accused No. 1 Ramandeep Singh son of Tarlochan Singh, 2. Tarlochan Singh, Mob. No.86849- 18335, resident of Jagta Colony, Opposite House No. 597/11 Rajauli Road, Tehsil Barara District Ambala, for cheating and extorting money in collusion with each other under the pretext of getting the Government job to the applicant. 1. That the applicant Gurjit Singh son of Kulwant Singh is resident of village Kambasi, Tehsil Barara, District Ambala and is engaged in farming. 2. That the accused No.2 has a shop in the name

of Marwah General Store and Cosmetics in Barara and our family members often go to the shop of accused no. 2 to buy cosmetics. In this way we know and recognize each other very well. That one day in March 2022, my father Kalwant Singh went to the shop of accused No.2 in Barara and at that time, Ramandeep Singh, the son of accused No.2, was also present in the shop. During conversation Ramandeep Singh's father asked to my father about me that what your son does and how educated he is. My father said that he works as a farmer with me, meanwhile accused no. 2 said that this is my son Ramandeep Singh, who is doing a government job in Chandigarh and is getting a good salary and also said that my son Ramandeep Singh has good acquaintance with high officials in Chandigarh. If your son wants to get a government job, then my son can get this work done and accused No.1 Ramandeep Singh also gave assurance and we agreed after listening to the accused. And accused no. 1 started saying that arrange Rs.5,00,000/- for this work, we will get the job done very quickly. 3. That the accused had asked to give advance payment of Rs. 1,50,000/- and this amount was taken away in cash by accused No.2 from our house, and said that he will take the remaining amount after getting you a job. I received a call from accused No.01 in May 2022 that your appointment letter has come and on dated 09.05.2022 gave me an appointment letter in the name of JMD Consultant, on which I had to go to Chandigarh City Bus Service Society to report on dated 10.05.2022 and this job was given to me for Washer which was at Depot No. 03 and but when I reached Chandigarh City Bus Service Society on 10.05.2022, they said that show your Identity Card but I did not have the same, then I contacted accused No. 1 Ramandeep Singh and told him everything, then Ramandeep Singh told me that no problem, you come back home, I will give you an identity card and then your joining will be done, after that accused no. 1 brought me the Identity Card of Chandigarh Transport Union on dated 08.06.2022, on which my photo is affixed and the seal of Chandigarh Transport is also affixed, whose validity is written from 14.07.2022 to 13.07.2024 and when on dated 14.07.2022, I went to Chandigarh for a job and showed them my Identity Card and after verifying it, they refused to let me in and said that where did you get this card from, we did not issue any such Identity Card, then I contacted accused No. 1 and he said that you wait there, I will talk to the officials and let you know, after some time, accused no. 1 called me and said that they have given the job to some other person in your place, don't worry, I will get you posted at another place soon. 4. That in August 2022, we again got a call from accused No. 1 that there is a vacancy for you to be appointed as a conductor in Chandigarh Transport and I will get you appointed there but you will have to deposit some more money and you will transfer some amount online and to give some amount in cash, then as per the request of the accused, I made online transfer of Rs.2,38,886/- between 25.08.2022 to 28.09.2022 and also gave Rs.1,00,000/- in cash. In September 2022, accused No.1 called me and told that your appointment letter for the job of conductor has come and your joining is on 19.02.2022 and accused no. 1 has again gave me the appointment letter in the name of JMD Consultant on which, I had to report to Chandigarh City Bus Service Society on 19.09.2022 and I was given this job as a conductor which was at Depot No.2 and I had an appointment letter along with an entry slip on which my arrival time and PC number were written and it also had the seal of Chandigarh City Bus Service Society on it. When I reached Chandigarh City Bus Service Society on 19.09.2022, they asked me to show my Identity Card but I did not

have it, then I called accused No. 1 Ramandeep Singh, but this time he did not pick up my call, despite repeated calls, I came back to my home, then the next day me and my father went to the shop of accused no. 2 and told him that for what you have taken the money, that every time you prepared fake documents and gave to us, you return our money otherwise we will take legal action against you, on this, accused no. 2 admitted his mistake and said that we will definitely get your work done, we then again believe on his words, on 17.10.2022 accused No. 1 Ramandeep Singh took me with him to Chandigarh and got an application written in the name of the director to take back the money, he took that application and went inside himself and after some time, got written on the back of the application regarding returning of money and got it signed, but till now no money has come in my account and when we repeatedly asked for more money, then the accused gave us the letter of Chandigarh Transport Under Training in December 2022 and this under training certificate was given by accused no. 1 on the affidavit of Chandigarh Administration stamp. When I went to join the job on 25.12.2022, then I came to know that all these fake documents were prepared by accused no. 1 and after that me and my father talked to accused no. 2 about returning back the money and he then said that we have spent that money but we have made a mistake but we will definitely return your money, please give us a few days' time. 5. That on 16.02.2023, accused no. 1 gave one cheque bearing number 647764 dated 16.02.2023 amounting to Rs. 1,30,000/- and another cheque bearing number 647767 dated 21.02.2023 amounting to Rs. 1,40,000/- of Canara Bank and said that the outstanding amount will also be given to you after a few days. When we deposited the checks in our accounts, there was no cash in both of them and in this way, in collusion with the above mentioned accused, they cheated us and prepared fake documents and extorted money from us on the false pretext of getting a government job and hence legal action may be taken against them and as per the law case may be registered against them and take the strictest possible action and please get our money back. Therefore, it is requested that the strictest legal action should be taken against the said accused and justice should be given to the applicant. Applicant -SD/- Gurjeet Singh S/o Kulwant Singh Village Kambasi, Tehsil Barara, District Ambala. Note: Copies of all the documents are attached. After receiving the investigation report of complaint in the from the office of Superintendent of Police, Ambala commission of offence under section 406,420,467,468,471,34 IPC was found on which FIR no. 169 dated 08.05.23 under Section 406,420,467,468,471,34 IPC Police Station Barara, District Ambala was registered, and reference was made to ASI SANDEEP KUMAR 237 for further investigation. The situation was informed to the Station House Officer. Entry in record will be done as per rules. A copy of the First Information Report is being sent by e-mail to the Officers. Entry in record will be done as per rules. (The first information report has been registered in the presence of ASI Sandeep Kumar 237.)"

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

3. The learned counsel for the petitioner has placed reliance upon the order dated 16.11.2023 (Annexure P-1), whereby, the co-

accused of the petitioner has been granted regular bail granted by the learned trial Court concerned, to submit that the present petitioner deserves to be treated at par.

4. He further submits that the petitioner has suffered incarceration of more than 04 months

SUBMISSIONS OF THE LEARNED STATE COUNSEL

5. On the other hand, learned State counsel has opposed the grant of regular bail to the petitioner, on the ground, that he is involved in two more criminal cases of similar nature of offences.

6 He has further submitted that the petitioner is the main accused, who has duped the complainant on the pretext of getting him a government job.

7. He further submits that the present petitioner has cheated a number of persons, therefore, he does not deserve the concession of bail.

8. Custody certificate *qua* the petitioner has been filed by the learned State counsel today in Court, which is taken on record. It depicts that the petitioner has suffered incarceration of 04 months and 19 days as on today, and, he is involved in two more criminal cases.

9. He has further, on instructions imparted to him by ASI Rakesh Kumar, informed this Court that the *challan* in the instant matter has been filed way back on 13.10.2023, and, charges were also framed on 22.11.2023, and, out of total 15 prosecution witnesses cited in the final report, no one has been examined so far.

ANALYSIS

10. *“Bail is the Rule and Jail is an Exception”*. This basic principle of criminal jurisprudence was laid down by the Hon’ble Supreme Court, way back in 1978, in its landmark judgment titled ***“State of Rajasthan V. Balchand alias Baliay”, 1977 AIR 2447, 1978 SCR (1) 535***. This principle finds its roots in one of the most distinguished fundamental rights, as enshrined in Article 21 of the Constitution of India. Though the underlying objective behind detention of a person is to ensure easy availability of an accused for trial, without any inconvenience, however, in case the presence of an accused can be secured otherwise, then detention is not compulsory.

11. The right to a speedy trial is one of the rights of a detained person. However, while deciding application for regular bail, the Courts shall also take into consideration the fundamental precept of criminal jurisprudence, which is “the presumption of innocence”, besides the gravity of offence(s) involved.

12. In ***“Nikesh Tarachand Shah V. Union of India”, (2018) 11 SCC 1***, the Hon’ble Supreme Court has recorded the following:-

“14. In Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 at 586-588, the purpose of granting bail is set out with great felicity as follows:-

“27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in Nagendra v. King-Emperor the object of bail is to secure the attendance of the accused at the

trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In K.N. Joglekar v. Emperor [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In Emperor v. Hutchinson [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the

various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. *Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)*

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”

29. *In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)*

“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. *In AMERICAN JURISPRUDENCE (2d, Volume 8, p. 806, para 39), it is stated:*

“Where the granting of bail lies within the discretion

of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

13. Also, in ***Siddharam Satlingappa Mhetre v. State of Maharashtra, Criminal Appeal No.2271 of 2010***, the Hon’ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual’s liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

3. The society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail

and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.

14. This Court has examined the instant petition on the touchstone of the hereinabove extracted settled and legal principle(s) of law and is of the considered opinion that the instant petition is amenable for being allowed.

15. The reason for forming the above inference emanates from the factum that:- (i) the final report has been filed way back on dated 13.10.2023, and, the charges have also been framed on 22.11.2023; (ii) the co-accused of the petitioner has already been granted bail by the learned trial Court concerned; (iii) the custody certificate makes revelations that petitioner has faced incarceration of 4 months 19 days as on today; (iv) out of 15 prosecution witnesses, no one has been examined so far.

FINAL ORDER

16. Considering the fact that the instant case is a magisterial trial, and the petitioner has already suffered incarceration of 04 months and 19 days, and charges have already been framed on 22.11.2023, and out total 15 prosecution witnesses, no one has been examined so far, and co-accused of the petitioner has already been granted regular bail by the learned trial Court concerned, this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the

present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

17. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

January 25, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No