

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-14399 of 2024
Date of Decision: 25.04.2024

Padam Bansal

...Petitioner

Vs.

State of Haryana

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vikram Chaudhari, Sr.Advocate, with
Mr. Sunil Sihag, Advocate and
Mr. Rishab Tiwari, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.553 dated 30.07.2016 registered under Sections 406, 419, 420, 465, 468, 471, 409, 201 and 120-B IPC at Police Station City Sirsa, District Sirsa.
2. Learned counsel for the petitioner contends that the petitioner is a senior citizen aged about 62 years and is a chronic patient of diabetes, hypertension and thyroid. Even, his wife is a senior citizen and is suffering from various ailments of uterus. Learned counsel for the petitioner contends that the FIR in the present was registered on 30.07.2016 about more than 07 years ago by alleging that M/s Bharat Trading Company, Sirsa had fraudulently

claimed VAT returns of Rs. 19,91,559/- by showing false inter-state sale of cigarette, cement etc., on bogus documents and caused loss to the Tax Department. Thereafter, series of FIRs were registered against M/s Bharat Trading Company, Sirsa and the petitioner had no concern with the said accused. However, the prosecution wrongly alleged that he was having the *de-facto* permission of the business of the said firm and was arrested by obtaining production warrants. Learned counsel further contends that even from the admitted case of the prosecution, no offence under Sections, 406, 419, 420, 465, 468, 471, 409, 201 and 120-B IPC is made out against the petitioner and it was a case of availment of fraudulent VAT, which would be governed by the provisions of Haryana Value Added Tax Act, 2003. Learned counsel further contends that the petitioner was arrested on 12.10.2023 and the challan has already been presented against him.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by the petitioner on the ground that the petitioner had committed a fraud by colluding with his co-accused and would be in a position to influence the witnesses of the prosecution.

4. I have heard learned counsel for the parties and perused the record.

5. At this stage, it is observed that the object of the bail is to secure the presence of the accused at the trial only. It is also observed that the object of bail is neither punitive nor preventive and

deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. Hon'ble the Supreme Court has observed in catena of judgments that when a person is punished by denial of bail in respect of any matter upon which he has not been convicted, it would be contrary to the concept of personal liberty enshrined in the Constitution except in cases where there is reason to believe that he may influence the witnesses. It is appropriate to say that pre-conviction detention should not be resorted to, except in cases of necessity to secure attendance at the trial or upon material that the accused will tamper with the witnesses if left at liberty.

6. In the present case, the FIR was got registered by the Excise and Taxation Officer on 30.07.2016 and the petitioner was arrested on 12.10.2023 after a period of more than 07 years. Even the offences are triable by the Court of Magistrate and the petitioner is in custody for the last more than 05 months. The co-accused Gopi Chand Chaudhary and Amit Bansal son of the petitioner have already been granted the concession of bail by this Court vide order dated 22.12.2023 (Annexure P-5) and dated 05.02.2024 (Annexure P-6) passed by this Court.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the

satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

25.04.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No