

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-16376-2024

Date of Decision:-10.04.2024

Surender Malik.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Shiv Kumar Sharma, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.551 dated 14.06.2023 under Sections 120-B, 406, 420, 467, 468, 471 IPC registered at Police Station Samalkha, District Panipat.

2. As per the case of the prosecution the petitioner-Surender Malik and his wife co-accused Mamta conspired to cheat victims including the present complainant and received a huge amount of money on the promise of providing government jobs to the victims. In furtherance of the same fake appointment letters were also given to the victims.

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. The amount if any, had been credited into the account of the wife of the petitioner who had been granted the concession of

anticipatory bail. In fact, the complainant himself was a man wanted in the State of Uttar Pradesh where he had cheated persons of an amount of more than Rs.2 Crores by claiming himself to be the manager of the HDFC Bank. The complainant had conveniently not disclosed that the wife of the petitioner had made payments to him to the extent of more than Rs.1 lac. The dispute if any was of a civil nature. As the petitioner was a first time offender, in custody since 12.12.2023 but none of the 23 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, moreso when the case was triable by the court of a Magistrate.

4. The Counsel for the State on the other hand contends that the petitioner and his wife cheated the complainant and other victims of huge amount of money on the pretext of providing them government jobs. Fake appointment letters have been given to the victims. The record collected during the course of the investigation with respect to the bank transactions of the accused showed that various amounts had been transferred into the account of the accused couple from the bank accounts of the victims and certain other accused were also involved in the racket. As the offence had been prima facie established, the petitioner was not entitled to the concession of bail. He however, concedes that the petitioner was a first time offender, in custody since 12.12.2023, that none of the 23 prosecution witnesses had been examined so far and that the case was triable by the Court of a Magistrate.

5. I have heard learned Counsel for both the parties at length.

6. This Court in the case *titled as Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* bearing CRM-M-

24033-2021(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 and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first time offender, in custody since 12.12.2023 but none of the 23 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Further, the co-accused of the petitioner namely Mamta, his wife has been granted the concession of anticipatory bail vide order dated 19.03.2024 (Annexure P-7). Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses if he is granted the concession of regular bail. Therefore, his further incarceration is not required.

8. Thus, without commenting on the merits of the case, the petitioner-**Surender Malik** son of Sh. Rameshwar is ordered to be released on bail subject to their 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 he is not involved in any other crime other than the cases mentioned in this order.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.
11. The Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

April 10, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No