

CRM-M-16938-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16938-2024
Reserved on: 05.08.2024
Pronounced on: 30.08.2024

Chand Narain Kuchroo ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gautam Goyal, Advocate for
Mr. Ashim Aggarwal, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

Ms. Ridhi Bansal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
512	22.08.2019	DLF, District Gurugram	406, 420, 467, 468 & 471 IPC & 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. Vide order dated 02.05.2024, the petitioner was granted interim bail, which continues to date.
3. Facts of the case are being taken from the order of interim bail passed by Coordinate Bench of this Court on 2nd May 2024, which reads as follows:

“The counsel for the petitioner submits that petitioner is aged about 74 years and is falsely implicated in the present case at the instance of the complainant on the ground that at the relevant time, petitioner was Director of Samparsh Food Private Limited, Aligarh. The counsel for the petitioner further submits that there was no malafide intention on the part of the petitioner when aforesaid company availed loan of Rs.5,02,59,573/- from the complainant and petitioner being Director of the company along with other Directors signed the loan documents. The counsel for the petitioner further submits that co- accused Akshar Kuchroo who was also Director of the aforesaid company is already given concession of anticipatory bail vide order dated 11.04.2023 having CRM-M-40059-2019. That the only difference between the case of the petitioner and that of Akshar Kuchroo is that the said co-accused resigned from his post as Director in October 2017, much after the aforesaid loan was availed by

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the company. It is further submitted that no such forgery, cheating or criminal breach of trust as has been alleged by the complainant is committed by the petitioner. It is further submitted that petitioner is ready to join investigation with the police.

Status report by way of an affidavit of Jitender, Assistant Commissioner of Police (East), Gurugram filed on behalf of the State is taken on record. The State counsel submits that Samparsh Food Private Limited took huge loan from complainant and thereafter failed to repay the said loan and the petitioner signed the loan documents being Director of the company. It is further submitted that petitioner is required by the police for proper investigation of the case as the property mortgaged on behalf of the company to secure the said loan was already sold by co-accused Sharvan Kumar Aggarwal, one of the Directors of company.

The counsel appearing on behalf of the complainant also argued on the same lines and submitted that there are grave allegations against the petitioner that he and other Directors of company, who were looking after day to day affairs of the company, committed fraud worth more than Rs.5 crore with the complainant. It is further submitted that the petitioner cannot take benefit of the order whereby co-accused Akshar Kuchroo was granted anticipatory bail as the case of said accused is totally different from that of present petitioner, as the petitioner is even now Director of the company whereas Akshar Kuchroo resigned from the company as a Director after availing the aforesaid loan.

I have considered the submissions made by counsel for the parties.

Petitioner is stated to be aged about 74 years and as per counsel for the petitioner he was having no dishonest intention to defraud the complainant.

Now be listed on 05.08.2024.

In view of above, the petitioner is hereby directed to join the investigation with the police and in case of arrest, he is to be released on interim bail by the investigating officer/arresting officer to his own satisfaction till the next date fixed in this case. The petitioner is also to abide by the conditions envisaged under Section 438 (2) of Cr.P.C.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. The petitioner's counsel submitted that perusal of the FIR shows that the main accused No.2 i.e. Shravan Kumar Aggarwal and that there are no substantive allegations against the petitioner apart from the fact that he is a director of accused company and was a co-borrower along with accused No.6. It is also submitted that no specific role in the alleged crime has been attributed to the petitioner and only omnibus allegations have been levelled. No ingredients of cheating or forgery are made out qua the petitioner on a bare reading of an FIR, which has been lodged more than three years after the alleged cause of action. Petitioner's counsel further submitted that co-accused No.6 i.e. Akshar

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Kuchroo against whom identical allegations have been levelled has been granted concession of anticipatory bail by this Hon'ble Court vide order dated 11.04.2023 passed in CRM-M-40059-2019 and another person i.e. Tarun Prakash Srivastava has also been granted anticipatory bail by this Court vide order dated 11.04.2023 passed in CRM-M-47370-2021. It is also submitted that accused No.8-Kabir lavez who is son of the main accused Shravan Kumar Aggarwal granted concession of regular bail u/s 439 CrPC by this Court vide order dated 09.05.2022 passed in CRM-M-29231-2020. The petitioner is a senior citizen aged about 74 years and suffering from diabetes, hypertension as also other medical problems which requires regular medical checkups and hospital visits. Hence, his incarceration may cause his health to deteriorate especially in view of his advancing age.

6. The State's counsel opposes the bail.

7. The co-accused Akshar Kuchroo was granted anticipatory bail by this Court in CRM-M-40509-2024. The allegations against the petitioner are although more but he is aged 74 and is stated to be suffering from illness, which would bring him in the category of "Sick".

8. The petitioner was granted interim protection, and during the interregnum, there is no allegation that he had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

9. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

10. **Petition allowed** in terms mentioned above. Interim order is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024

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Whether speaking/reasoned: Yes

Whether reportable: No.