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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205/2

CRM-M No. 17564 of 2023 (O&M)
Date of Decision: 05.11.2024

Joginder Singh Bhatia

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar Sharma, Advocate,
Mr. Bhisham Kinger, Advocate for the petitioner.

Mr. Anurag Chopra, Addl. A.G, Punjab.

MAHABIR SINGH SINDHU, J.

Present second petition has been filed, under Section 439 of the Code of Criminal Procedure, 1973 seeking bail pending trial in FIR No. 01 dated 05.01.2023, registered under Sections 420, 409, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 (for short, 'IPC') (Section 201 IPC added later on) and Section 13(1)(A) read with Section 13(2) of Prevention of Corruption Act, 1988, as amended by Prevention of Corruption Amendment Act, 2018 at Police Station Vigilance Bureau, Phase-1, Punjab at Mohali, District SAS Nagar.

2. Allegations are that petitioner in connivance with his other co-accused caused loss to Government to the tune of Rs. 600/700 Crores while issuing NOC in favour of M/s Gulmohar Township Private Limited alongwith its directors and allowing them bifurcation of Plot No.1 (to be used for industrial purpose) into 125 plots for other purposes.



3. Learned Senior counsel contends that petitioner was granted interim bail by the then Coordinate Bench on 13.04.2023 and in pursuance thereof, he is regularly appearing before learned trial Court. Further submits that there is no allegation that petitioner has misused the concession and/or likely to hamper the proceedings in any manner; thus sending him into custody at this stage would not serve any purpose.

4. Learned State Counsel, on instructions from quarter concerned, has acknowledged the above factual position and also submits that petitioner is regularly appearing before learned trial Court and his presence is well recorded. He further acknowledged that although petitioner has not misused the interim concession; but opposed the prayer for bail.

5. Heard learned counsel for both the sides and perused the paper book.

6. It is discernible that the then Coordinate Bench on 13.04.2023 granted interim bail to the petitioner and the order reads as under:-

“ The petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.01 dated 05.01.2023 registered under Sections 13(1)(A) read with Section 13(2) of the PC Act, 1988 as amended by PC (Amendment) Act 2018 and under Sections 409, 420, 465, 467, 468, 471, 201 and 120-B IPC (Section 201 IPC added later on) at Police Station Vigilance Bureau, Phase-1 Punjab at Mohali, District SAS Nagar.

Mr.Gaurav Garg Dhuriwala, Addl.DAG, Punjab appears on behalf of the respondent on the basis of advance notice.

Evidently challan has already been presented. In case of co-accused Parminder Singh, the Hon'ble Apex Court in Writ Petition (Criminal) No. 91 of 2023 has passed the order. Paras 11 to 13 of the order dated 05.04.2023 are reproduced as under:-

11. The above facts do prima-facie make out a case for interference but looking into the fact that various factual aspects require consideration in depth, we deem it appropriate to relegate the petitioner or any other person who may be aggrieved in this regard to approach the High Court invoking its extra-ordinary jurisdiction



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conferred by Article 226 of the Constitution of India read with Section 482 Cr.P.C.

12. We further request the High Court that in case any such petition is filed to take up the same for hearing and disposal including a prayer, if any, made for interim relief, in accordance with law expeditiously.

13. Considering the peculiar facts and circumstances of this case, we further direct that all further proceedings arising out of and emanating from the impugned FIR as well as coercive actions shall remain stayed for a period of four weeks from today. The extension of the interim relief granted by us or any other interim relief which may be warranted in the facts and circumstances of the case may be sought from the High Court, in case the aggrieved parties decide to approach the High Court.”

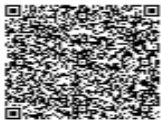
Since the Hon'ble Apex Court has granted indulgence for grant of interim relief for a period of 4 weeks therefore the petitioner is directed to be released on interim bail subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court for a period of 4 weeks.

Adjourned to 03.05.2023.

Grant of interim order shall not be construed to be an opinion on the merits of the case. ”

7. It is not in dispute that aforesaid interim order has been extended from time to time. Learned State counsel candidly acknowledged that petitioner has not misused the interim concession in any manner. It is also admitted by both sides that proceedings before learned trial Court have been stayed in the aforesaid FIR vide order dated 04.05.2023 in CRM-M-20858-2023 and that order is stated to be still continuing.

On asking of the Court, learned State counsel is not able to point out any reason or ground to decline the bail to petitioner. Even, there is no allegation that in case, interim bail is made absolute, petitioner is likely to misuse the concession and/or hamper the proceedings in any manner. In such a scenario, sending the petitioner to custody at this stage would not serve any purpose.



8. Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 13.04.2023, is made absolute. He shall be admitted to bail on furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
9. Petitioner shall appear on each & every date of hearing and to fully co-operate with learned trial Court without seeking any unnecessary adjournment(s).
10. The above observations be not construed as an expression of opinion on merits of the pending trial.
11. In case there is any misuse of concession by the petitioner, State would be at liberty to move an appropriate application for recalling of this order.
12. It is clarified that willful non-appearance of the petitioner shall be construed as misuse of the concession.

Pending application(s), if any, shall also stand disposed off.

05.11.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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