

224

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

CRM M-25182-2023 (O&M)

Date of Decision: 13.02.2024

Mahesh Gupta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Kanwal Pratap Singh, Advocate for
Mr. Amit Chaudhary, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 439 Cr.P.C seeking bail pending trial in FIR No.694 dated 04.12.2022, registered under Sections 420, 467, 468, 471, 120-B and 408 IPC at Police Station, Sector 10-A, Gurugram.

2. Allegations are that petitioner, who was a Chartered Accountant in the company of complainant-K.K. Gandhi, fraudulently got transferred Rs.1.30 crore in his account.

3. This Court, on 18.07.2023, granted interim bail to the petitioner in the following order:-

“Learned Senior Counsel contends inter alia that petitioner is in custody since 13.01.2023; after investigation, report under Section 173 Cr.P.C. was submitted on

13.01.2023 and even the charges have also been framed on 15.07.2023.

After hearing both sides, this Court was inclined to accept the prayer of petitioner; but learned Counsel for the complainant opposed the same on the premise that petitioner shall hamper the trial while pressurizing prosecution witnesses.

Although, plea at the instance of complainant is not tenable in view of the fact that learned State Counsel has not raised such an objection. However, on safer side, one opportunity is granted to learned State Counsel for seeking specific instructions to that effect.

Posted on 13.09.2023.

Concededly, as on today, the trial is going on smoothly, therefore, this Court deems it appropriate to grant the concession of interim bail to the petitioner.

In view of the above, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

4. Learned counsel for petitioner submits that charges were framed on 15.07.2023 and out of 13 prosecution witnesses, none has been examined till date. Also submits that petitioner was granted interim bail by this Court on 18.07.2023 and since then, he is regularly appearing before the learned trial Court. Further contends that there is no misuse of concession by the petitioner.

5. Learned State counsel, upon instructions, has fairly acknowledged the above factual position.

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

7. Concededly, charges were framed on 15.07.2023 and out of 13 prosecution witnesses, none has been examined so far; petitioner was granted

interim bail by this Court and he is regularly appearing before learned trial Court. There is no allegation that he is likely to misuse the concession of bail or hamper the proceedings in any manner, in case his interim bail is made absolute. Thus sending the petitioner to custody at this stage would not serve any purpose.

8. Although, learned counsel for complainant objected to the prayer of the petitioner, but in view of the candid stand taken by learned State counsel, the objection of complainant stands rejected.

9. Consequently, the present petition is allowed. Interim bail granted to the petitioner, vide order dated 18.07.2023, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournment(s).

11. The above observations be not construed as an expression of opinion on the merits of the case.

12. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order. Also clarified that non-appearance of petitioner before the learned trial Court shall be construed as misuse of the concession.

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

13.02.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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