

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-1859-2024 in/and
CRM-M-35929-2023
Reserved on 15.01.2024
Date of decision: 19.01.2024

Nikhil Raj Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Amritpal Singh Maan, Advocate
for the applicant-petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Aditya Sanghi, Advocate and
Ms. Shweta Sanghi, Advocate for the complainant.

KARAMJIT SINGH, J. (ORAL)

CRM-1859-2024

The present application is allowed and documents Annexures
R-1 to R-5 are taken on record, subject to all just exceptions.

CRM-M-35929-2023

1. The present petition has been filed by the petitioner under
Section 439 Cr.P.C for grant of regular bail in criminal case having FIR
No.400 dated 06.10.2022 registered at Police Station Sector-50, Gurugram
under Sections 120-B, 406, 420 IPC (Sections 467, 471 and 411 are added
later on).

2. Brief facts of the prosecution case are that one firm M/s Chhatisgarh Education Foundation was being run under the presidentship of co-accused Vikram Partap Singh and another accused Vikas Attre was its purchase head and it was engaged in business of supply of electrical goods to Chhatisgarh government. Vikas Attre projected to the various vendors that they received purchase orders from various departments of Chhatisgarh government in the name of M/s Chhatisgarh Education Foundation for supply of electrical goods. On their assurance, various vendors agreed to supply fans and electric wires to them at a reasonable rates and Vikas Attre being its purchase head assured to the vendors that the payment will be made within 45 days of the date of delivery. The post dated cheques signed by co-accused Vikram Partap Singh were also handed over to the vendors as a security. The electric goods supplied by the complainant and other vendors were received by co-accused Agnishwar Rai, its ware house and admn. incharge. Thereafter, the accused persons failed to make the payment and the security cheques were also dishonored and that office of M/s Chhatisgarh Education Foundation located at Spaze IT Park was also found lying closed. Then complainant Akhil Sarda lodged complaint in writing with the police and initially FIR in this case was registered under Sections 406, 420 and 120-B IPC against Vikram Partap Singh, Naresh Babu, Mukesh Sahu, Vikas Attre, Agnishwar Rai and Krishna Murari on 06.10.2022. Thereafter, the petitioner was nominated as accused on the basis of statement of complainant Akhil Sarda dated 01.11.2022 and was arrested on 28.04.2023.

3. The counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and is in custody for the last

more than 8 months and that after completion of investigation police has presented the challan but charges are yet to be framed and all the offences are triable by the Court of Judicial Magistrate, Ist Class. It has been further contended that there is no document available on the record to show that M/s Chhatisgarh Education Foundation was run by the petitioner. That the alleged goods were never delivered to the petitioner by the complainants and the security cheques alleged to be issued on behalf of M/s Chhatisgarh Education Foundation were not bearing the signatures of the petitioner. It has been further submitted that the alleged goods supplied by the complainants were not recovered at the instance of the petitioner. That one I-Phone 13 Pro having number 8707003762 was recovered by the police from the petitioner. That as per prosecution, police effected recovery of 3 empty almirahs in area of Jhansi from the petitioner on 01.05.2023. That another 70 almirah were stated to be recovered at the instance of petitioner, Vikram Partap Singh, Swapnil, Shehzad and Agnishwar Rai by the police on 01.05.2023 from house of Amit Aggarwal in the area of Chattarpur (M.P.). The counsel for the petitioner has further contended that with regard to aforesaid recoveries of almirahs and other articles, police added offence under Sections 411 IPC. The counsel for the petitioner has further contended that the petitioner was not party to cheating and fraud as has been alleged in the FIR wherein the petitioner was not named as an accused. The counsel for the petitioner has further contended that presently the petitioner is lodged in judicial custody and it will take considerable time for the trial to conclude, after its commencement. It has been further contended that no purpose is going to be served by detaining the petitioner in custody for any longer period.

4. Status report by way of an affidavit of Abhimanyu, Assistant Commissioner of Police, Sadar, Gurugram dated 27.09.2023 filed on behalf of the State is taken on record.

5. The present petition is resisted by the State counsel as well as the counsel for the complainant. Both the counsel submitted that the present petitioner is the main accused and being master mind he concealed his identity and did not sign any document. It is further submitted that the petitioner was nominated as accused on the basis of the statement of complainant recorded under Section 161 Cr.P.C. and co-accused Vikram Partap Singh after his arrest suffered disclosure statement against the petitioner, wherein Vikram Partap Singh revealed about the active role performed by the petitioner in commission of fraud and cheating as is alleged in the FIR. The other accused persons also made similar disclosure statements against the petitioner. It has been further contended that certain premises and godown were taken on rent by the accused persons at the behest of the petitioner who was arrested on 28.04.2023. It has been further contended that at the first instance the petitioner got recovered 3 almirahs from area of Jhansi and on the same day recovery of another 70 almirahs and other articles was effected from area of Chattarpur (M.P.) at the instance of the petitioner and other accused. It has been further contended that there is no ground made out to release the petitioner on regular bail at the stage, when the trial is yet to commence.

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

7. Admittedly, the petitioner was not named in the FIR which was registered against 6 other co-accused on the ground that they were managing the affairs of M/s Chhatisgarh Education Foundation which was a registered society headed by co-accused Vikram Partap Singh and members of the said society were Saroj Sahu, Naresh, Lalit Kumar, Mukesh Sahu, Vicky Ahirwar and Manju Verma and documents with regard to registration of the said society are part of the police record.

8. It is the case of the police that the accused persons projected to the complainant and other vendors that they are having work order in their favour to supply electrical goods and other material to various departments of Chhatisgarh government and that the said work order was found to be fake during investigation. The counsel for the petitioner pointed out that the said document which was found to be fake is not bearing signatures/name of the petitioner and apparently, it is not the case of the prosecution that the petitioner ever approached the various vendors and the complainant and induced them to supply goods by showing the aforesaid work order. There are also allegations that the accused named in the FIR procured various goods from complainant and other vendors and gave post dated security cheques which were later on dishonored on their presentation. The concerned cheques which are available on the police record are not bearing the signatures of the petitioner. It appears that even the invoices whereby the goods were delivered were not bearing name or signatures of the petitioner. As per prosecution, certain premises were taken on rent by the accused persons and as pointed out by the counsel for the petitioner, the concerned lease deeds which are available on the record are not bearing the

signatures/name of the petitioner. The petitioner was arrested in this case on 28.04.2023 and thereafter, certain recoveries were effected at his instance and at the instance of co-accused as are already discussed above. As per record, the recoveries which were effected exclusively at the instance of the petitioner includes 3 empty almirahs and one I-Phone 13 Pro. After completion of investigation, police has presented the challan against the accused persons who are in custody. The charges are yet to be framed against the accused persons and even thereafter, it will take considerable time for trial to conclude. All the offences are triable by the Court of Judicial Magistrate, Ist Class.

9. In light of the above, this Court is of the view that no purpose is going to be served by prolonging the judicial custody of the petitioner. Consequently, the present petition is hereby allowed and the petitioner is directed to be released on regular bail on his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned. The petitioner is not to leave the country without prior permission of the trial Court and not to pressurize the prosecution witnesses in any manner.

10. Observations made herein above are not to be construed as expression of opinion on the merits of the case.

19.01.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No