

2024:PHHC:104998



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

CRM-M-34798-2024

Date of Decision : 13.08.2024

BALWINDER KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Abhishek Khullar, Advocate and
Mr. J.S.Jaidka, Advocate,
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J.(Oral)

1. Through this second petition, the petitioner craves for indulgence of this Court for him being enlarged on regular bail, in case FIR No.68, dated 19.12.2018, under Section 420 and 406 of the IPC, registered at Police Station Taragarh, District Pathankot.

2. The earlier petition preferred by the petitioner for the same cause of action was dismissed by a co-ordinate bench on dated 13.03.2020, vide Annexure P-5.

3. What surfaced from the perusal of the record that the petitioner was granted the relief of interim bail vide order dated 27.03.2020 by the learned trial court concerned, on furnishing his personal bonds due to spread of Covid-19 pandemic. The interim bail was

extended number of times, and it remained continued uptill 03.11.2020. The petitioner was required to appear before the learned trial court concerned on 03.11.2020, however, he did not surrender, which result into cancellation of bail orders and his bail bonds were forfeited to the State vide order dated 13.09.2021, after giving number of opportunities, and by issuing notice to him, on various occasions. Thereupon, the petitioner was declared proclaimed offender vide order dated 22.07.2022. The petitioner was finally arrested on 05.04.2024, and till then he is behind bars.

4. The allegation against the present petitioner is that he duped the complainant to the tune of Rs.30,00,000/- on the pretext of getting jobs for his sons and nephews.

5. Learned counsel for the petitioner, in asking for the relief of regular bail, submits that the present petitioner has suffered sufficient incarceration of more than 1 year as on today, and the conclusion of the trial will take a long time.

6. He further submits that the offences for which the petitioner is facing trial is a magisterial trial.

7. Notice of motion.

8. Mr. Bhupender Singh, DAG, Haryana, accepts notice on behalf of respondent-State and vociferously opposed the asked for relief (*supra*), to the present petitioner, and has placed on record a custody certificate *qua* the petitioner, which is taken on record. It reveals that the petitioner has suffered incarceration of 1 year 2 months and 2 days as on today, and on account of the petitioner being declared as proclaimed

offender, one more FIR under Section 174-A IPC, is stated to have been registered.

9. He further on instructions imparted to him by the police official concerned, submits that out of total 24 prosecution witnesses cited by the prosecution in the final report, only 9 have been examined till date, whereas 4 witnesses have been given up by the prosecution.

10. This Court has heard the learned counsel for both the parties concerned, and has gone through the entire case file.

11. Be that as it may, considering the fact that the petitioner has suffered incarceration of 01 year 02 months and 02 days as on today, and out of the total 24 prosecution witnesses, only 9 have been examined (04 witnesses being given up), therefore conclusion of the trial would take long time, and the offences for which the petitioner is facing trial is a magisterial trial, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner, during the pendency of trial. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail, on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover,

anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

August 13, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

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