



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-35044-2024 (O&M)
Reserved on : 19.09.2024
Pronounced on: 25.09.2024

RAKESH BANSAL

..... Petitioner

VERSUS

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Charanjeet Bhalla, Advocate and
Mr. Gursimranjeet Singh, Advocate for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J.

The jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.11 dated 18.03.2024 under Sections 420, 467, 468, 471 and 506 of IPC and Sections 66(c), 66(d) of Information Technology (Amendment) Act, 2008 registered at Police Station Cyber Crime Haryana, District Panchkula.

2. Succinct factual narrative relevant for the disposal of this petition is that Dushyant Sharma-complainant, a resident of Faridabad and owner of a food supplement shop, was deceived into becoming a director of a fraudulent company, Tig Twag International Pvt Ltd. In March 2023, his cousin, Pankaj Sharma, who works at ICICI Bank, convinced him to join the company, promising a lucrative salary and profit shares. Using Dushyant's Aadhaar, PAN, and eKYC, Pankaj and his associates, including Supreet and Mukesh, opened multiple bank accounts in his name without his knowledge.



These accounts, opened in banks such as Yes Bank and AXIS Bank, facilitated unauthorized transactions amounting to ₹145 crores. When complainant became aware of these activities in July 2023, Pankaj threatened him, warning him to stay silent. The accused individuals took control of these accounts, and complainant was threatened when he raised concerns.

3. Learned counsel for the petitioner submits that the present FIR has been registered after a delay of one year and the petitioner-Rakesh Bansal was not named in the FIR and no allegations have been levelled against the petitioner. There are no records or documents that implicate the petitioner in any transactions or indicate his involvement with the companies mentioned in the FIR. The petitioner is neither a director nor connected in any capacity with the companies in question, and no monetary benefits from the alleged fraud have been traced to him. The petitioner is not connected with any of the alleged companies and the petitioner has no role in opening of any bank accounts or any transactions and he is not even a beneficiary of any alleged transactions and there is no evidence in the charge-sheet which suggests that the petitioner is benefited in any way. It is also submitted that there are no allegations or involvement of cheating or forgery qua the petitioner for creating the company or for opening of bank accounts. The petitioner also faces serious health issues, including fluctuating blood pressure, deteriorating urological health issues and other medical conditions that have worsened during his time in judicial custody and his health is deteriorating after his wife has passed away while he was in custody. Moreover, the petitioner has fully cooperated with the investigation and there is no risk of flight, tampering with evidence, or influencing witnesses, which fulfills the 'triple test' for granting bail.



4. Learned counsel for the petitioner has placed reliance upon the judgments rendered in the cases of *“Sanjay Chandra Vs. CBI” (2012) 1 SCC 40*, *“P. Chidambaram Vs. Directorate of Enforcement” (2020) 13 SCC 791*, *“Prabhakar Tewari Vs. State of Uttar Pradesh and another” (2020) 11 SCC 648*, wherein, the Hon’ble Supreme Court has laid down certain observations regarding release of accused on bail.

5. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel has filed the custody certificate in Court today, which is taken on record. As per the custody certificate, the petitioner has undergone actual custody of 03 months and 16 days. He further submits that there is one other case i.e. court complaint No.RC-BD1/2016/E/0010/2016 under Sections 120-B, 419, 420, 467 IPC and Sections 13(2), 31(1) D of Prevention of Corruption Act, is registered against the petitioner at Police Station CBI (ACB), New Delhi. He further on instructions, submits that the challan was presented on 18.05.2024 and charges were framed on 16.08.2024 and out of total 50 prosecution witnesses, none has been examined till date. He, however, submits that there are serious allegations against the petitioner, therefore, he is not entitled to the concession of regular bail.

6. Heard the rival submissions made by learned counsel for the parties.

7. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The petitioner has undergone an actual custody of 03 months and 16 days and a complaint case is registered against the petitioner. Admittedly, the challan was presented on 18.05.2024 and charges were framed on 16.08.2024 and out of total 50 prosecution witnesses, none has been examined till date. The trial of the case



will take considerable time and no useful purpose will be served by detaining the accused in custody.

8. As per the principle of the criminal jurisprudence, no one should be considered guilty till the guilt is proved beyond reasonable doubt. Detaining the petitioner behind bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in “***Dataram Singh vs. State of Uttar Pradesh and another,, (2018) 3 SCC 22***”.

9. Considering the fact that the petitioner is a senior citizen aged 67 years and his medical condition, which has aggravated during the custody after the demise of his wife and the conclusion of the trial will take a considerable time, this Court deems it appropriate to grant the relief of regular bail to the petitioner, who is behind the bars since 01.06.2024.

10. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

11. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs. 5,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petitioner shall also abide by the following conditions:-

- (I) The petitioner shall surrender his passport, if any, (if already not surrendered) and in case he is not holder of the same, he shall swear an affidavit to that effect;

- (II) The petitioner shall not leave the Country except with the prior permission of the Court;
- (III) The petitioner will not tamper with the evidence during the trial.
- (IV) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (V) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (VI) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (VII) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- (VII) The petitioner shall not in any manner try to delay the trial.

13. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

14. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

15. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

25.09.2024
Kavita

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