

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37748-2023
Decided on : 15.01.2024

Shubham Petitioner
Versus
State of Haryana Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sandeep Saini, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. This is the second petition filed by the petitioner seeking concession of regular bail in case FIR No.558 dated 22.10.2021 under Sections 420, 406, 506 IPC (Section 506 IPC deleted later on) registered at Police Station Sadar Yamuna Nagar District Yamuna Nagar.

2. Learned counsel for the petitioner *inter alia* contends that in a Magisterial trial, the petitioner has been in custody since 08.12.2021 and even though charges were framed almost two years back on 22.03.2022, only two prosecution witnesses out of 36 cited, had been examined till date. Learned counsel has submitted that despiteailable warrants had been issued on number of dates by the trial Court to secure the presence of the prosecution witnesses, they had

not been appearing before the trial court, as a result of which, the trial was getting unnecessarily delayed. A prayer, therefore, has been made that the petitioner in the aforementioned facts and circumstances cannot be made to languish in custody for reasons not attributable to him coupled with the fact that the petitioner has clean antecedents; the case in hand rests on documentary evidence, hence, there could not be any possibility of the petitioner tampering with the evidence on record.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner has submitted that the petitioner had duped the complainant and some other villagers for an amount in the sum of Rs.44,20,000/- by luring them to invest into his "chit fund business". Learned State counsel has not disputed the factum of only two prosecution witnesses having been examined till date, which includes the complainant. It has further been submitted on instructions that the next date of hearing fixed before the trial Court is 18.01.2024 when some more prosecution witnesses are likely to be examined. It has also not disputed on instructions that bailable warrants had indeed been issued by the Court to secure the presence of prosecution witnesses on number of dates.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. The petitioner as not disputed by the State counsel has been in custody for more than three years having been arrested on 08.12.2021

in a Magisterial trial. The case rests on documentary evidence. The complainant already stands examined in the case in hand.

6. On a pointed query put to the learned counsel for the State as to whether the petitioner is involved in any other criminal case of identical nature, he on instructions has replied in the negative, however, he submits that two cases under Section 138 of Negotiable Instruments Act stand registered against him.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of regular bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.01.2024
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(MANJARI NEHRU KAUL)
JUDGE

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