

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38545 of 2023

Date of decision: 28th February, 2024

Gurpreet Singh Sahota

... Petitioner

Versus

UT of Chandigarh & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Robin S. Hooda, Advocate for the petitioner.

Mr. J.S. Toor, APP UT Chandigarh with

Mr. Adhiraj Toor, Advocate for the respondent/UT.

None for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.218 dated 13.10.2017 under Section 420 IPC (Section 120-B and 174 IPC added later on) registered at Police Station Sector 26, Chandigarh.

2. Learned counsel for the petitioner inter alia contends that in a Magisterial trial, the petitioner has now been in custody for almost one year and nine months, having been arrested on 24.05.2022. He submits that it is a matter of record that out of the three material witnesses, two had been examined and they had not supported the case of the prosecution as a result of which they had been declared hostile. Learned counsel further submits that the case is being repeatedly adjourned to

await the presence of the complainant who is admittedly not in India. Learned counsel submits that in the circumstances, the petitioner cannot be made to languish in custody for no fault of his and that too, in a Magisterial trial.

3. Per contra, learned counsel appearing on behalf of UT Chandigarh while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert the submissions with respect to the trial having come to a virtual standstill on account of repeated absence of the complainant before the trial Court. It has also not been disputed, on instructions, that the other two material witnesses had not supported the case of the prosecution during trial. Learned State counsel has further submitted that the next date of hearing fixed before the trial Court is 12.03.2024 when some more witnesses are likely to be examined. However, he has reiterated the allegations leveled in the FIR wherein the complainant had alleged that he had been cheated by the petitioner of approximately ₹27.00 lacs on the pretext of sending him abroad.

4. Learned State counsel has placed on record the custody certificate of the petitioner, which is taken on record subject to all just exceptions. A perusal of the same does reveal that the petitioner is a habitual offender as he is involved in a number of cases. However, at the same time the petitioner cannot be made to languish in custody in the

instant case for reasons not attributable to him but to the complainant, on account of whose absence the conclusion of trial is being delayed.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The petitioner has now been in custody since 24.05.2022 in case of Magisterial trial and there is no likelihood of the trial concluding in the near future as only 8 witnesses out of the 21 cited by the prosecution have been examined till date. In the facts and circumstances, as enumerated hereinabove, this Court thus deems it fit to extend the concession of bail to the petitioner. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

7. Needless to add here, in case the petitioner misuses the concession of bail, the State would be at liberty to approach this Court for cancellation of bail in the instant case.

(MANJARI NEHRU KAUL)
JUDGE

February 28, 2024
rps

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