

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.45115-2023 (O&M)
Date of Decision: 15.01.2024

Rajbir

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Parminder Singh, Advocate for the petitioner.
Mr.Ashok S. Chaudhry, Add. A.G. Haryana.
Mr. Manmohan Saroop, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail pending trial to the petitioner in FIR No.80 dated 18.03.2022, under Sections 323, 342, 365, 406, 420, 120B, 506 of IPC, registered at Police Station, City Pehowa, District Kurukshetra.

(2) Above FIR was registered on the basis of statement, made by complainant-ASI-Pali Ram with the allegations that accused-petitioner had entered into an agreement with the complainant for sale of ,3000 quintals of rice at the rate of Rs.2380/- per quintal. Complainant paid an amount of Rs. 71,40,000/- to the petitioner, however, the rice did not reach to the complainant. Thereafter, complainant was asked to pay an amount of Rs. 1,50,00,000/- in addition to the amount already paid for purchase of 8 acres of land. Accused-petitioner demanded another amount of Rs. 1 crore and when the complainant expressed his inability, he was taken to Mohali, where his mobile

phone was snatched and after putting him in a vehicle was taken towards Yamuna Nagar. Also alleged that complainant was beaten and asked to arrange money. Thus, petitioner defrauded the complainant to the tune of Rs. 2,99,00,000/-.

(3) Learned Counsel for the petitioner contends that he was granted interim bail on 09.11.2023 and in compliance thereof, he is regularly appearing before the Court below. Also contends that there is no apprehension that petitioner is likely to hamper the trial or threaten the prosecution witnesses in any manner, if he is granted bail pending trial. Also contends that complainant has gone abroad and he is not coming forward to depose before learned trial Court, thus proceedings are unnecessarily delayed.

(4) Learned State Counsel on instructions from the quarter concerned is not able to controvert the above factual position, including that complainant is not coming forward as a prosecution witness despite granting repeated opportunities.

(5) On the other hand, learned counsel for the complainant vehemently opposed the prayer of petitioner for regular bail.

(6) Heard both sides and perused the paper-book.

(7) This Court, on 09.11.2021⁴³, granted interim bail to the petitioner and order reads as under:-

“Contends that petitioner is in custody since 25.03.2022; after presentation of challan, the charges stand framed and out of total 22 prosecution witnesses, 03 have already been examined. Also submits that complainant is not coming forward to depose before the learned trial Court; rather he has settled abroad (Australia).

Faced with the above situation, learned State counsel seeks time to have instructions in the matter. Learned State counsel seeks time to have instructions in the matter.

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In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.”

(8) Concededly, petitioner was granted interim bail on 09.11.2023 and he is regularly appearing before learned trial Court. It is not in dispute that complainant has gone abroad and he is not coming forward to depose before learned trial Court for the reasons best known to him. Apart that, there is no allegation that in case petitioner is granted bail pending trial, he will misuse the concession in any manner.

(9) In such a scenario, sending him in custody at this stage would not serve any purpose.

(10) Consequently, present petition is allowed. Interim bail granted to the petitioner, vide order dated 09.11.2023, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(11) Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

(12) The above observations may not be construed as an expression of opinion on the merits of the case.

(13) It is clarified that in case there is any misuse of concession on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

(14) Disposed off accordingly.

(15) Pending application(s), if any, shall also stand disposed off.

15.01.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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