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

**CRM-M-43557-2024
Date of decision: 04.11.2024**

SANJAY VERMA AND ANOTHER ....Petitioners

Versus

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms. Kashish Sahni, Advocate
for the petitioners.

Mr. Abhinash Jain, DAG, Haryana.

<u>KULDEEP TIWARI. J.(Oral)</u>

1. Through the instant second petition, the petitioners crave for indulgence of this Court for them being enlarged on regular bail, in case FIR No.518, dated 04.10.2018, under Sections 406, 420 and 120-B of IPC (Section 3 of the Haryana Protection of Interest of Depositories in Financial Establishment Act, 2013 added later on), registered at Police Station City Narnaul, District Narnaul.

2. The petitioners, who were taken on production warrants on 27.11.2022, in the instant FIR. The instant FIR, has been registered on a complaint made by one Pardeep Kumar. The relevant extract of the FIR reads as under:-

> "To, the SHO Police Station City, Subject: For registration of FIR regarding fraud and forgery and for taking legal action against Malvanchal group of company 1) Manvanchal India Ltd, 2) Malvanchal Infrastructure Project Ltd and other companies's CEO/CMD/ Directors Makhan Lal Verma 5/o Awant Singh Verma, Sanjay Verma S/o Makhan Lal Verma, Suman Verma W/o Makhan Lal Verma, Praveen Kumar Patel S/o Sh. Murari Lal, Gopal Patel S/o Dilip Patel and other connected Directors; further for revovery of the money of the investors & applicants. Sir, it is requested, that abovementioned Directors of these companies. have opened an office in Kailash Nagar, Narnaul; they told

about their Corporate offices situated at New Delhi, Indore & Devas (Madhya Pradesh), which are as follows: 306, third floor Bhagwati Business Centre S/561, Secondary School Block Shakarpur New Delhi - 503; 5th floor, Mahasagar Corporate, near Gita Bhawan Chowk Indore 452001; CMD, CEO and company Directors are residents of village Nawada Tonk, Khurd District Devas (Madhya Pradesh). 2. That Deepak Dikashit who used to claim himself to be GM of abovementioned company came to Narnaul and met us, then in various short meetings he showed registration & business documents of the abovementioend companies. He assured us that these companies were valid as per law, then he made us to meet the CMD & other Directors in Narnaul, then they all by showing documents of companies pursued us for doing business with the company and for getting investments into the company. They said that company shall return double amount in 5 years; and triple amount in 8 years. Agent shall also receive commission separately. On this assurance by them and on the basis of documents shown by them, we started working in this company from 2001 to 2012 and company started issuing bond & receipts against the receipt of money from he investors. 3. That all the abovementioned accused, used to come from time to time at Narnaul for meeting applicants & other investors and they used to assure that their investments were secure, because of this reason we applicant and other investors have invested about Rs.20 crores in this company. But after year 2016-2017 when the maturity of the bons happened, applicants & other invesotrs deposited their bonds & receipts at office at Kailash Nagar Rewari Road Narnaul, for the purpose of maturity of their amount. Employee of the office took all the original documents and gave receipts for the same and said that you can after after 15 days for getting yout money back. We all were being going to their office after expiry of 15 days time, but just 6 months earlier, we were told that we should go to their head office for refund of our money, as they wetre unable to contact them bevause of closure of software. We also went to head office and met CMD & other Directors and we asked for immediate payment of applicant & other investors. But these people used to tell us every time they our payment shall be done in a short time. Then Branch offices of the company were shut town and software of the company was also closed. Even aftrer numerous visits ti=o them, they did not reture our deposited money & they stopped meeting us and they changes their mobile numbers. In this manner they have defrauded poor investors/ applicants (Pradeep Kumar Mandhana, Ram Naresh Sharma Dumroli, Jitender Kumar Kahnawas, Bajrang Singh Basai, Mukhtiar Majra Khurd, Ajit Singh Majra, Vijay Pal Dumroli Neemrana, Som Dutt Sharma Dumroli Neemrana, Kanwar Singh Neemrana, Santosh Kumar Dumroli Neemrana, Ram Swaroop Dumroli, Rajender Dumroli, Pawan Singh Kheri Kanti, Jitender Singh Kheri Kanti, Ashwani Kheri Kanti, Amar Singh Baraheri Harsoli Alwar, Om Prakash Yadav Kumpur Alwar, Ram Bir Kheri, Hosdarpur Jhajjar, Raj Singh Bhindawas Jhajjar, Sat Narayan Bhindawas, Uday Singh Bhindawas, Mahavir Prasad Godhari Jhajjar, Samundar Singh Jat Gohana, Balbir Singh Palada, Dumroli, Randhir Dumroli, Ajay Kayasa, Lal Ram Rawana, Kailash Chand Kaisa, Sher Singh Kaisa, Satyavan Sagarpur Atell, Seema Devi Pataudi, Puran Singh Mumtazpur Pataudi, Ajit Singh Khandsa, Deepak Pataudi, Dayanand Manhethi, Mukesh Rewari, Rarn Kishan Kakrala, Phoolwati Dhamlaka Rewari, Ramphal Jodia, Dinesh Kumar Khanpur Narnaul, Pawan Mathur Gawadi Neemka Thana, Prahlad Rai Saini, Ganeshwar Neemka Thana, Mukesh Kumar Chiranikhetri, Sunita Devi Dumroli, Maya Devi Jakhrana Bajrod, Anita Devi Khudna, Kailash Chand Khadana, Sandeep Kumar Bairawas, Jagdeep Daroli Jat, Surender Kumar Haluheda, Jainarayan Seekopur Gurgaon, Prahlad Singh Baghanki Gurgaon, Bastiram Fatehpur Ateli, Ranjit Singh Tobda, Paramveer Maharajawas Behrod, Yogesh Kumar Behrod, Shailender Kumar Mandola Kund, Naresh Sharma Dumroli, Sudesh Kumar Mandhana, Pravesh Kumar

> Brajpura, Sunil Yadav Maharajawas, Subhash Kumar Bamanwas, Chuttan Ram Gujjar Bamanwas, Jai Singh Chawandi, Jeet Singh Jat Gohana, Sunil Jatuwas, Beena Beri, Hansraj Sarai, Urmila Kheri, Surender Singh Mandhana, Nepal Ballabgarh, Indra Bahadur Faridabad, Vikram Faridabad, Than Bahadur Faridabad, Min Prasad Sharma Faridabad, Mahipal Shivpur, Roshan Lal Dogra, Inderjit Dumroli, Krishan Kumar Dumroli, Somdutt Dumroli, Bansilal Dumroli, Hari Singh Manpura Ateli, Singh Raj Dochana, Omprakash God Bablana, Chander Girdharpur, Ashok Salipur, Ghansham Girdharpur, Girwar Singh Kutina, Barfi Devi Bichpadi, Surender Kumar Jhadoda, Satyaveer Jhadoda, Sumer Singh Shahpur-2, Praveen Kumar Saga, Hukmichand Saga, Surender Chander Majri Kalan, Ramotak Majrikalan, Ranvir Juniavas, Jile Singh Kherki Daula Investors/Applicants' amount of about Rs.20 crores have been defrauded by intentionally playing fraud and now they have gone underground. Therefore you are requested that strickest legal action may be taken against all these accused persons including CEO/CMD/ Directors and our poor people's hard earned money may be returned to us...."

3. The earlier petitions (Annexure P-2), was disposed of by this Court vide order dated 23.07.2024, with a liberty to the present petitioners to re-approach the learned trial court concerned, for seeking regular bail under Section 480(6) of the BNSS by making an appropriate motion. Further a *mandamus* was also passed upon the latter, that in case such application is filed by the petitioners, an endeavour shall be made to decide the same most expeditiously, preferably within 6 days.

4. The petitioner preferred the regular bail application before the learned trial court concerned, which was dismissed vide order dated 02.08.2024 (Annexure P-3). Thereafter, the petitioners approached the Additional Sessions Judge, Narnaul, for the same relief, however, in their efforts they remained unsuccessful as same was dismissed vide order dated 13.08.2024 (Annexure P-4), which propelled the present petitioners to file the instant second regular bail application before this Court.

5. Learned counsel appearing for the petitioners in asking for the relief of regular bail submits that the petitioners have suffered incarceration of about 2 years in the instant FIR, and till date, out of the total 17 prosecution witnesses, as

cited in the final report, only 03 witnesses have been examined till date.

6. She further submits that there is delay on the part of the prosecution agency, in recording the statements of its witnesses, and the petitioners should not be made to suffer on the part of the prosecution's delay.

7. While drawing attention towards the orders dated 02.08.2024 and 13.08.2024 (*supra*), she submits that there is no reasons assigned by the Courts below, while declining the relief of regular bail to the present petitioners, in the light of provisions of Section 480(6) BNSS, and only on the basis of the gravity of the allegations, that too of embezzled amount involved in the instant FIR, the bail application was dismissed. The Courts below ought to have record the reasons of delay, and what were the reasons, which caused delay in examination of the prosecution witnesses.

8. She also submits that it is the statutory obligation upon the magistrate concerned, to record the reasons for not granting such relief to an accused, as admittedly, in the instant case, after framing of charges on dated 27.10.2023, the prosecution has not been able to conclude its evidence till date. Therefore, the petitioners are entitled to be released on regular bail.

9. Finally, she submits that without going into the merits of the case, considering the fact that more than half of the sentence which can be imposed upon the present petitioners, in case the petitioner is convicted, for the offences, for which the petitioners are facing trial, has already been suffered by them.

10. On the other hand, learned State counsel opposed the grand of regular bail the present petitioners, and has filed a custody certificate *qua* the petitioner, today in Court, which taken on record.

11. While referring to the custody certificate (*supra*), he submits that the petitioners are involved in about 22 other criminal cases of a similar nature. Therefore, the petitioners are not entitled for the asked for relief.

12. He further submits that in the instant case, the petitioners are one of the directors of the company, who duped the gullible persons, on the pretext of doubling the money in a short span of time, and as per the allegations in the instant FIR, they have embezzled an amount of approximately Rs.20 crores.

13. This Court has examined the entire case file, and has considered the rival submissions, as made by learned counsel for the parties, and is of the considered opinion that the instant petition is amenable for being allowed.

14. The reason for forming the above inference emanates from the factum that:-

(i) it is not under dispute that the charges were framed way back on 27.10.2023, and till date the prosecution has been able to examine only 03 witnesses, out of the total 17 prosecution witnesses;

(ii) from the perusal of the order passed by both the courts below, it reveals that the only reason for declining the relief (*supra*), is the gravity of the offence committed by the present petitioners, and except that, no other reason was assigned, therefore, interference of this Court is warranted;

(iii) all the offences under which the petitioners are facing trial, are triable by a Judicial Magistrate Ist Class;

(iv) the petitioner has suffered incarceration of 01 year 11 months and 06 days, and till date trial has not even reached the halfway mark, therefore, no fruitful purpose would be served by keeping the petitioners behind the bars;

(v) though the petitioners are stated to be involved in 21 other criminal cases of the same nature, however solely on the basis of antecedents the relief of regular bail cannot be declined to the petitioners, inasmuch as considering the days of incarceration and above stated factors.

15. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioners are ordered to be released on regular bail on furnishing of their respective heavy bail bonds and heavy surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

16. Both the petitioners are directed to deposit their passports, if not already deposited, in any other criminal case.

17. However, it is clarified that if in future, the petitioners are found indulging in commission of similar offences, as are 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.

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

19. All pending application(s), if any, also stand **disposed** of accordingly.

(KULDEEP TIWARI)
JUDGE

04.11.2024
dharamvir

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