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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-14803-2024 in/and
CRM-M-49569-2023 (O/M)
Date of decision : 08.04.2024

Kamini Pandey

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Ms. Sehaj Sandhawalia, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG Haryana.

Ms. Renu Bala Kamboj, Advocate for
Mr. Vivek Goyal, Advocate
for complainant.

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HARSH BUNGER, J.

CRM-14803-2024

This is an application filed under Section 482 Cr.P.C. for placing on record Compromise Deed and Affidavit as Annexure P-5 and Annexure P-6.

For the reasons mentioned in application, same is allowed and Compromise Deed and Affidavit (Annexure P-5 and Annexure P-6) are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CRM-M-49569-2023

1. This is second petition filed under Section 439 Cr.P.C. on behalf of petitioner (Kamini Pandey) for grant of regular bail in case FIR No. 2 dated 13.01.2023, registered under Sections 419, 420, 467, 468, 471, 120-B IPC

and under Sections 66-C and 66-D of IT Act at Police Station Cyber Crime, Kurukshetra, State of Haryana.

2. The first petition filed under Section 439 of Code of Criminal Procedure (CRM-M-16496-2023) by petitioner was dismissed by this Court, vide order dated 17.05.2023 (Annexure P-3).

3. Custody certificate dated 04.04.2024 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Briefly, the aforesaid case FIR has been registered on the statement of Pritpal Singh s/o Jagender Singh against Sonia Aggarwal, Akansha Verma, Pramod Mathur, Anjali Mathur, Rahul Sharma, Om Prakash Rathor, Nirmala Jain, Yogesh Dixit, Santosh Acharya, Kodar and Aneeta Sharma. It is alleged that accused No.1 (Sonia Aggarwal) had procured information from the complainant through phone by saying that she is an officer in the HDFC and in case he invests some money in the company then he shall reap high rewards. It is stated that complainant got deceived by her words and invested about Rs. 15,00,000/- in the aforesaid company, however, he did not receive any policy of the invested amount. It is alleged that thereafter the complainant was contacted by Akansha Verma and Pramod Mathur from their respective phone numbers, who told the complainant that his file was presently with them and he was due to receive around Rs. 44,00,000/- and they also took all the important documents from the complainant. The aforesaid Akansha Verma is also alleged to have given a file number to the complainant. It is next alleged that thereafter, Anjali Mathur, Rahul Sharma, Om Prakash and Nirmala Jain started calling the complainant and they made him invest an amount of Rs. 10,00,000/- in an account of the company in question and thereafter, the complainant started having conversations with Yogesh

Dixit, Santosh Acharya and Kodar. As per the complainant, the said persons also made him deposit Rs. 7,00,000/- in the account of the aforesaid company. It is further alleged that thereafter, Aneeta Sharma was talking to the complainant and she also made him invest Rs. 4,50,000/- in the account of said company and also provided him file No. PS3425968. It is alleged by the complainant that the aforementioned accused had stolen money to the tune of Rs. 50,00,000/- from him and thereafter were refusing to return the same and rather threatening him. Accordingly, the aforesaid case FIR was registered and during investigation, it was revealed that petitioner had introduced herself to complainant as Aneeta Sharma.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the petitioner has no connection with the other co-accused and petitioner is sought to be implicated in the instant case only on the allegation that her phone number was used for making calls to the complainant. Learned counsel for the petitioner submits that the first bail application filed by the petitioner came to be dismissed on 17.05.2023 (Annexure P-3) and the challan was presented on 18.04.2023, however, even after a lapse of almost one year, the trial has not made any progress. It is submitted that the charges were framed on 08.02.2024 and out of total 17 prosecution witnesses, none has been examined till date.

6. Learned counsel for the petitioner further submits that a Compromise dated 15.01.2024 (Annexure P-5) has already been effected between the complainant and the petitioner (through her mother). It is next submitted that the petitioner has already undergone custody for a period of 1 year, 2 months and 13 days (as on 04.04.2024) and the trial in the case is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind

the bars for indefinite period. It is also submitted that no other case is pending against the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court. Learned counsel further submits that the petitioner is also willing to furnish security in the form of Fixed Deposit Receipt (F.D.R.) before the concerned Court, so as to ensure her presence before the Court on each and every date of hearing. Accordingly, prayer for grant of regular bail is made.

7. Per contra, learned State counsel has opposed the prayer made by learned counsel for the petitioner seeking regular bail on the ground of seriousness and gravity of the offence. It is submitted by learned State counsel that in case, the petitioner is extended the benefit of regular bail then there is every likelihood that she may influence prosecution witnesses or may even abscond and thus delay the trial, however, it is not disputed by learned State counsel that the petitioner has undergone custody of more than one year and out of 17 prosecution witnesses, none has been examined till date.

8. Learned counsel for complainant has admitted the factum of compromise (Annexure P-5) between the complainant and the petitioner (through her mother). Learned counsel for complainant has also reiterated the stand of complainant in his affidavit (Annexure P-6) that complainant has no objection if regular bail is granted to petitioner.

9. I have heard learned counsel for the parties and perused the paper book as well as custody certificate dated 04.04.2024 of the petitioner, filed by State of Haryana.

10. This Court is not inclined to accept that the compromise effected with the complainant would be reason enough to infer that the petitioner would automatically be entitled to release on bail. Significantly, offences under

Sections 467, 468 and 471 IPC are not even compoundable under Section 320 Cr.P.C., 1973. Therefore, the compromise, in itself, may therefore not be reason enough to bring down the curtains.

11. The petitioner is in custody since 20.01.2023 and taken note of the fact that out of total 17 cited witnesses, none of the witnesses has been examined till date, this court has reason to believe that considerable time is still likely to be consumed in conclusion of the trial. Furthermore, as per the custody certificate, no other case is pending against the petitioner.

12. Hon'ble Apex Court in case titled ***Dataram Singh Versus State of Uttar Pradesh and Another***, 2018 (2) RCR (Criminal) 131, has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgement that a person is believed to be innocent until found guilty.

13. Hon'ble Apex Court in case titled ***Umarmia Alias Mamumia Versus State of Gujarat***, (2017) 2 SCC 731, has held delay in criminal trial to be in violation of right guaranteed to an accused under Article 21 of the Constitution of India.

14. In ***Manoranjana Sinh alias Gupta Versus CBI***, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial.

Pertinently, appropriate directions can be issued for securing the attendance of the petitioner in the trial.

15. So far as the apprehension expressed by learned State counsel that the witnesses could be influenced by the petitioner, suffice it to state that in the event

of any such conduct, the prosecution can always approach the competent Court for cancellation of bail. Accordingly, it is observed that the State/Prosecuting Agency/State police shall be at liberty to observe the behaviour of the petitioner during the bail period, and in case it feels that the petitioner is indulging in influencing any of the witnesses or tampering with the prosecution evidence in any manner or otherwise causing interference with the progress of trial, it shall be open for the State/Prosecuting Agency/State police to move to the trial Court for cancellation of the bail, which shall be decided by the trial Court on merits.

16. In view of the above discussion, present petition is allowed and the petitioner (Kamini Pandey) is ordered to be released on regular bail subject to her furnishing local bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about her address at which she intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish her telephone number to the concerned Station House Officer. She would also furnish her undertaking to the effect that she will not indulge in any illegal activity.

17. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs. 50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

18. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

- 19. The petition is accordingly disposed of.
- 20. All pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

08.04.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No