(204) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50219-2023
Date of Decision: 22.03.2024

NAVEEN KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vishal Sharma Haritwal, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.09 dated 08.01.2022 registered under Sections 420, 465, 467, 468, 471, 506, 120-B IPC, 1860 at Police Station Manesar, District Gurugram.

2. The brief facts of the case are that a complaint was submitted by the complainant-Monesh Israni against Parveen Yadav, Dinesh Mohan Sorkhi, Kamal Singh and other unknown accomplices and bank officials of the Axis Bank. It was alleged that the accused persons had played a fraud and had cheated him of an amount of Rs.64.49 crores on the pretext of providing tenders for construction of housing projects of the National Security Guard, Manesar by forging the documents of the office of the Director General, NSG, Manesar and by opening and operating a fake bank Account No.92102000036255 in the Axis Bank, NSG, Manesar in the name of G.C. (Garrison) NSG, Manesar. It was alleged that the complainant was the Director and the authorised person of M/s Narain Dass R Israni Co.(P) Ltd.

In the month of September, 2021 the Directors of the complainant-company were approached by Parveen Yadav pretending himself to be an IPS Officer and the Station Commandant NSG by giving his mobile number and Aadhar Card number through Dinesh Mohan Sorkhi (granted bail vide order dated 30.05.2023 passed in CRM-M-20121-2023) who pretended to be an old friend of Parveen Yadav. Both the accused projected and allured the complainant that there were two big housing projects in NSG, Manesar and if the complainant gave a bid for the same, the work could be allotted to him. The complainant was regularly called to the NSG, Manesar campus by the two persons and they would meet in the Officers' Mess at NSG, Manesar. The accused gave a letter dated 08.09.2021 to the complainant calling for quotations for 740 Type III residential quarters and another letter dated 16.10.2021 calling for quotations for the construction of residential quarters which were received by speed post. On the basis of the representation of the accused regarding the aforesaid tenders, an earnest money of Rs.17,71,56,000/- and another amount of Rs.46,78,25,220/- were deposited by cheques in the name of Office of CG (Garrison) Station Head Quarters NSG. Both the cheques were cleared into the Account No.92102000036255 of Axis Bank, NSG, Manesar Branch. The accused provided a letter dated 22.10.2021 intimating the lowest bid (L-I) through post and acknowledged the documents. The letters of acceptance of the tender were to be received in the first week of January, 2022 along with the agreement and the letter of intent. However, Parveen Yadav accused and other co-accused stopped attending the phone calls of the complainant and when he visited the house of

Parveen Yadav, he came to know that he along with his family had left the house earlier. Thus, he had been cheated of an amount of Rs.64.49 crores.

During the course of investigation, the relevant account statements were obtained from the concerned banks. On 11.01.2022, Parveen Yadav got recovered the cars purchased by him from the proceeds of the crime. He was arrested on 13.01.2022 and got recovered some other vehicles as well. He also got recovered a cash amount of Rs.13,81,26,000/-, a fake sanction order, supply order, allotment letter, laptop and fake stamps. The documents of properties purchased by the accused Parveen Yadav from the money obtained from the commission of the offence were also recovered.

Rituraj Yadav (granted bail vide order dated 28.11.2023 passed in CRM-M-19071-2023 Annexure P-8), Dinesh Sorkhi and Mamta (granted bail vide order dated 20.12.2023 passed in CRM-M-63127-2023) were arrested on 13.01.2022. Rituraj Yadav and Mamta got recovered jewellery purchased from the amount. Dinesh Sorkhi got recovered an agreement to sell. As per the prosecution case, the money which had been deposited in the fictitious Bank account of the NSG Manesar bearing Account No.92102000036255 was further siphoned off into the account of M/s Koshia Enterprises Pvt. Ltd. where Rituraj Yadav and Mamta were the Directors.

The accused Kamal Singh and Naveen Kumar were arrested on 22.03.2022.

The report under Section 173(2) Cr.P.C. was submitted against Rituraj Yadav and the other above-named accused.

The bank account of the accused persons were frozen and during investigation, it came forth that an amount of Rs.6.09 crores of the fraud amount was lying credited in the bank account of M/s Koshia Enterprises Pvt. Ltd. and the said Company was also found to be involved in the money transferred between the accused persons.

The supplementary challan against M/s Koshia Enterprises Pvt. Ltd. was submitted on 02.02.2023.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case as he is a brother-in-law of the main accused Praveen Yadav. In fact, there was no financial transaction between the complainant on the one hand and the petitioner on the other. The money received in the account of the petitioner was from his brother-in-law Praveen Yadav and not from the complainant and therefore, it could not be alleged that the petitioner had committed any offence. The petitioner was serving as an Assistant Commandant with a Paramilitary Force and was on deputation NSG, Manesar, Gurugram and had no knowledge of any transactions/dealings of his brother-in-law Praveen Yadav with the complainant. As the petitioner was in custody since 09.02.2022 but none of the 106 prosecution witnesses had been examined so far, he was entitled to the concession of bail as his co-accused namely, Rituraj Yadav, Mamta and Dinesh Mohan Sorkhi had been granted the concession of regular bail and in two of the three other cases registered against him arising out of FIR No.10 dated 09.01.2022 U/s 406, 419, 420, 467, 468, 471, 120-B IPC, P.S. Manesar, Gurugram and FIR No.12 dated 10.01.2022, U/s 406, 419, 420, 467, 468,

471, 120-B IPC, P.S. Manesar, Gurugram, he had been granted the concession of bail by this Court.

4. A reply dated 16.03.2024 by way of an affidavit of Surender Sheoran, HPS, Assistant Commissioner of Police, Manesar, Gurugram has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner was the brother-in-law/Jija of the main accused Praveen Yadav and the husband of co-accused Rituraj Yadav. Praveen Yadav had transferred an amount of Rs.68 lakhs in the account of the petitioner along with a further amount of Rs.1 lakh. A sum of Rs.24 lakhs was transferred into the ICICI Bank account of the petitioner from the joint account of Praveen Yadav and Rituraj Yadav with the AXIS Bank. An amount of Rs.5.50 lakhs was transferred in the ICICI Bank account of the petitioner from the account of Koshia Enterprises Pvt. Ltd. and an amount of Rs.5.50 lakhs was transferred in the account of the petitioner from the account of co-accused Mamta wife of accused Praveen Yadav at Equitas Bank. Further, a cash amount of Rs.10 lakhs was deposited in the SBI Bank account of the petitioner. On the asking of accused Praveen Yadav, it was the petitioner who had given money to Praveen Yadav from which cars, electronic items etc. The petitioner had further transferred an amount of Rs.80.50 lakhs in the accounts as directed by Praveen Yadav (accused). All the accused had gone to Punjab and had spent Rs.33 lakhs for their personal expenses. Thus, the petitioner had been actively involved along with co-accused Praveen Yadav in the management of the money obtained by him through the present fraud. He, however, concedes that the petitioner was in custody since 09.02.2022, none of the 106

prosecution witnesses had been examined so far and that in two of the three cases registered against him, he had been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.*"

7. In the instant case, though the allegations against the petitioner are extremely grave, the veracity of the prosecution version against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 09.02.2022 but none of the 106 prosecution witnesses had been examined so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. Four co-accused have been granted the concession of bail. There are no serious apprehensions expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required moreso when in two out of the three cases registered against him, he has been granted the concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Naveen Kumar son of Shri Ranbir

Singh is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.3,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

22.03.2024
JITESH

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