IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54452-2023 (O & M)
Date of decision: 15.03.2024

Naresh Kumar .... Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Fariad S. Virk, Advocate,
for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

Mr. P.S. Ahluwalia, Advocate, for the complainant.

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JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.257 dated 20.12.2022 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Kotwali, Patiala, District Patiala.

2. The present complaint came to be registered at the instance of Jai Inder Singh and reads as under:-

> *"At this time, a complaint bearing No: 8554/Peshi dated 17.09.2022 and No 3946/O.P. dated 11.10.2022, sent by Jai Inder Singh son of Krishan Mahinder Singh, resident of House No. 01,. Malwa colony, Patiala, after inquiry conducted by Deputy Superintendent of Police Detective, Patiala marked by the Senior Superintendent of Police, Patiala has received in this Police Station through post, for the registration of the case against; Palwinder Singh son of Gurdial Singh resident of village Chamaru, Tehsil Rajpura, District Patiala and Harbans Singh son of Karnail Singh resident of House No 155, Ward No.*

3, Sanaur, District and unknown persons. The contents of complaints are under: To, the Senior Superintendent of Police. Patiala. Sub: Application to take legal action against 1) Ravinder Singh son of Inderpal Singh, resident of House No 02, Malwa Colony Patiala, 2) Harbans Singh son of Karnail Singh, resident of House No 155, Ward No. 03, Sanaur, District Patiala; 3) Naresh Kumar son of Om Parkash, resident of House No 1055, Gali No: 09, Old Bishan Nagar, Patiala; 4) Joginderpal son of Badri Parshad, resident of Darshna Colony, near Marian Hanuman Mandir, District Patiala; 5) UCO Bank, Branch Chotti Bardari, Patiala for committing fraud in connivance with each other and for opening the forged account bearing No. 01030110064863 in the name of complainant Jai Inder Singh and his father Krishan Mahinder by forged Aadhaar Card, Pan Card and Photographs and by marking fake signatures of the complainant and his father and later on for misusing this account. Sir, it is requested that I, Jaibinder Singh son of Krishan Mahinder Singh, Resident of House No. 01, Malwa colony, Patiala and prays as under:

1) That I am NRI and resides at abroad in Canada and at this time I am in India and I, my father, brother and mother have an agricultural land measuring 98 Acre in village Suniaar Heri, Tehsil and District Patiala and we are owner in possession over the above said land.

2) That I and my Brother Manwinder Singh is residing abroad country and my father is senior citizen and Handicapped and cannot walk and patient of Sugar Decease, because of which right foot of my father has cut.

3) That above said Ravi Inder Singh, who is ours nephew in relation and is our neighbor has already been cheated us on many occasions and the accused no. 2 Harbans Singh, accused no. 3 Naresh Kumar and accused no. 4 Joginderpal etc are his companions and beside them other unknown persons also their companions and these persons in connivance with each other *by hatching criminal conspiracy; had been prepared forged Biana/Agreement to Sell of our abovesaid land of village Suniaar Heri, Tehsil and District Patiala and we have come to know this fact from some reliable sources, whereas we have not executed any agreement to sell our land with abovesaid accused persons and have not been prepared any agreement to sell in their favor. It is important to mention here that the above mentioned accused persons have been prepared forged GPA to sell out our (mine and my father's) 55 Acre land. Regarding this matter we have already been lodged an FIR No: 202, dated 15.07.2021 under sections 420, 467, 468, 471, 120-B of IPC at Police Station Triparri, Patiala. Beside this an FIR No: 001 dated 27-10-2021, under sections 420,465, 467, 468, 471, 120-B of IPC and under section 67 of Information & Technology Act, is also registered at Police Station Crime Wing, District Mohali and in this case, Ravi Inder Singh has been compromised the matter with the complainant by paying him Rs. 3.00 Crores. It is also important to mention here that in this case they have been got made fake drafts of bank. Beside this an FIR No. 259 dated 15.09.2020, under sections 485, 382, 323, 506, 138, 149 IPC & 25 of Arms Act is also registered against him at Police Station Civil Line, Patiala and beside this two complainant under section 138 of N. I Act are also pending against above said accused Ravi Inder Singh at the Ld Courts at Patiala and Mohali.*

4) That now we have come to know that the abovesaid accused persons on the basis of abovesaid forged documents and my misusing the Pan Card, Aadhaar Card of me and my father and fixing the photographs of other persons on our Aadhaar Card and Pan Card and by hatching conspiracy with the employees of Uco Bank branch, Chotti Barandari, Patiala have got opened forged account bearing No: 01030110064863, whereas we have no concern or connection with this account and nor we have got attached our any mobile No with this account and nor *we have got deposited any amount in this account nor have withdrawn any amount from this account.*

5) That the accused Ravi Inder Singh is the mastermind of this forged work and he with the conspiracy of his companions is used to do this work and Naresh Kumar is used to help him to prepare forged documents.

6) That the abovesaid accused persons are involved in this racket for opening forged account bearing No: 01030110064863 and we have also got information that huge money been made through this account and Mobile No: 78892-30204 is attached with this account. The persons mentioned in the subject have been a big gang and we have no information that beside us they have been misused documents of how many persons and how many forged accounts have been opened?

7) That the abovesaid accused persons in connivance with each other may have opened more other forged accounts in our names, this matter may be investigated thoroughly and legal action may be taken against the abovesaid accused persons by lodging an FIR. Thus, by submitting this complaint it is requested that legal action may be taken against abovesaid accused persons for opening and operating forged account in our names by misusing our aadhaar card and Pandcards and photograph of me and my father and justice may be done with me. With thanks. Yours faithfully. Sd/- Jai Inder Singh".

3. The above-mentioned complaint was marked for enquiry and pursuant to the conclusion of the same, the instant FIR came to be registered.

4. Harbans Singh was arrested and disclosed the names of his co-accused including the petitioner who had forged and fabricated various documents and had opened an account in the name of the complainant and his father.

5. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He had been named in the disclosure statement of his co-accused/Harbans Singh. As he was in custody since 24.05.2023 but none of the 18 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded in the near future. Therefore, he was entitled to the concession of bail, moreso, when the case was triable by the Court of a Magistrate and a co-accused, namely, Anil Kumar, had been granted the concession of anticipatory bail vide order dated 29.05.2023 (Annexure P-3).

6. The learned counsel for the respondent-State has filed a reply dated 20.02.2024 which is taken on record. While referring to the said reply, he contends that the petitioner and his co-accused fabricated various documents and opened a bank account in the name of the complainant and his father. In fact, the instant FIR is an offshoot of earlier cases got registered by the complainant and certain others against the petitioner and others. As the petitioner was a habitual offender with three other cases registered against him, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 24.05.2023, none of the 18 prosecution witnesses had been examined so far and that the case was Triable by the Court of a Magistrate.

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

8. 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."

9. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated during the course of the Trial. Admittedly, the petitioner is in custody since 24.05.2023 and none of the 18 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Even otherwise, the present case is triable by the Court of a Magistrate and no serious apprehension has been 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, the further incarceration of the petitioner is not required, moreso, when a co-accused/Anil Kumar has been granted the concession of anticipatory bail by this Court vide order Annexure P-3.

10. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Naresh Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

11. 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 case(s)/crime other than the cases referred to in the custody certificate dated 15.03.2024.

12. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

13. The present petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 15, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No