

2024:PHHC:163065



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56075-2024
DECIDED ON: 02.12.2024

KAMAL PREET SINGH @ KANWALJEET SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pradeep Sharma, Advocate for the petitioner.

Mr. Jasjit Singh Rattu, DAG Punjab.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in case FIR No.93 dated 29.03.2023, under Sections 406, 420, 467, 468, 471, 120-B of IPC, 1860 registered at Police Station Zirakpur, District SAS Nagar, Mohali.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

"It is registered that at this time one complaint number 1046/5D/police station Zirakpur from Sanjay Kumar Garg S/o Late Kapur Chand Garg R/o House No. A-1, 1003 Maya Garden city Nagla Road Zirakpur police station Zirakpur district S.A.S. Nagar written action police ASI Chamkor Singh 739/SAS Nagar by hand through P.H.G. Lajja Ram 30777 has been received," To, Head Officer police station Zirakpur. Subject: - Kamalpreet Singh S/o Harbans Singh R/o House No. 32-B, Sharma Estate, Lohgarh Road, Zirakpur district S.A.S. Nagar, his wife Ashminder Kaur and Balwinder Singh Sharaf S/o Mohammand Sharaf

R/o Telephone Exchange Colony, Patiala Road Zirakpur and Ashminder Kaur's two relative Sunny and Püppy R/o Delhi with regard to fraud of crores of rupees committed by them with us. Respected Sir, It is requested that we are resident of Zirakpur and Panchkula. We are mutual friends. Among us someone is bank employee and someone used to work as property dealer. One of our friend Kamalpreet Singh S/o Harbans Singh R/o House No. 32/B, Sharma Estate, Lohgarh Road, Zirakpur district S.A.S. Nagar who do work of immigration with his wife Ashminder Kaur, Balwinder Sharaf and Ashminder Kaur's two relatives Sunny and Pappi R/o Delhi from his house. These above five through a conspiracy committed fraud with us of around 10 crore rupees. Kamalpreet Singh and his wife Ashminder Kaur above by preparing forged documents have opened 8 bogus accounts in different-different banks. Committed fraud with us by putting money in those bogus accounts. Whose detail is as following: -1. Sanjay Kumar Garg S/o Late Kapur Chand Garg R/o House No. A-1, 1003 Maya Garden City Nagla Road, Zirakpur Police Station, Zirakpur district S.A.S. Nagar, 9501474850, around 5 Crore rupees has received in different-different bank accounts, whose detail is attached herewith. Kamalpreet Singh and Ashminder Kaur, 2. GurmeharSingh S/o Late Sh. Pal Singh R/o House No. 146, Dashmesh Colony, Patiala Road Zirakpur, 9417372077, around 16 lakhs have been deposited in account of Kamalpreet Singh and rest 22 lakh 81 thousand received in different-difference bank accounts, whose detail is attached herewith (Kamalpreet Singh as a trust had given different-difference cheques of 3 lakh and 5 lakh rupees bank account no. 19180100007458 of Federal Bank Zirakpur. On which he has written his name Kawaljeet Singh. 3. Baljinder Singh S/o Charanjit Singh R/o House No. 62, Green Park Colony, Lohgarh Road Zirakpur. 9815376017, around 23 lakh 79 thousand rupees deposited in Yes Bank Zirakpur bank account no. 04593600000949. Whose detail is attached herewith (Deposited in Kamalpreet Singh's account through R.T.G.S. and account pay). 4. Shashank Sharma S/o Surinder Sharma R/o House No. 39, Air Force Enclave, Dhakoli, Zirakpur. 9888886085, around 3 crore 50 lakh rupees deposited in Kotak Mahindra Bank account no. 5647009904. Whose detail is attached herewith (Deposited in Kamalpreet Singh's account through R.T.G.S.). 5. Yogesh Mahajan S/o Ramesh Mahajan R/o Flat No. 18-C, Skynet Enclave Lohgarh Road Zirakpur. 9876084213, around 25 lakh rupees (received in H.D.F.C., Kotak Bank and I.C.I.C.I. bank through card swiping). Whose detail is attached herewith. 6. Vijay Kumar Juneja S/o Late Sh. Roshan Lal R/o Flat No. 601, Tower No. 4, Royal Estate, Zirakpur. 9216730000, around 44 lakh rupees (given in front of Paras Tulli and Rajat Nayar in cash). 7. Asees S/o Kishan R/o House No. 623, Sector 11, Panchkula. 8447094882, around 20 lakh rupees cash (given in front of

Mehndi Ratta and Abhishek Indwal. Kamalpreet Singh, Ashminder Kaur, Balwinder Sharaf R/o of Zirakpur and Sunny, Pappi R/o Delhi above with their families are in keen desire to go abroad. If they are not got arrested today then they will evade abroad with our money and money given by us to them will die. It is our request that relative legal action should be taken against these two. We will be thankful to you.”

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that the petitioner was in custody since 29.03.2023, wherein investigation is complete and nothing is to be recovered from him.

On behalf of the respondent/State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He prays for dismissal of the present petition on the ground that the petitioner is a habitual offender, as he is involved in other cases.

4. **Analysis**

In everyday terms, the principle of law dictates that bail is the general rule, while jail is the exception. However, this Court acknowledges that the power to grant or deny bail is extraordinary and must be exercised with caution. It is well-established that when considering a bail application (whether pre-arrest or regular bail), the Court must form a *prima facie* opinion as to whether reasonable grounds exist to support the accusation, or if the accusation is frivolous and baseless possibly made with the intention of harming or humiliating the individual, or falsely implicating them in the crime. This evaluation must be conducted in light of the self-imposed restrictions and the broader legal parameters outlined.

This Court is mindful that, according to the legal mandate in Criminal Appeal No. 3840 of 2023, titled “***Saumya Churasia versus Directorate of Enforcement, decided on 14.12.2023***”, when considering a bail application, the Court is not obligated to meticulously examine the evidence gathered by the Investigating Agency. However, the Court must consider several factors, including the nature of the accusation, the type of evidence collected in support, the severity of the punishment for the alleged offences, the character of the accused, the unique circumstances surrounding the accused, the likelihood of securing the accused’s presence during trial, the possibility of witness tampering, and the broader interests of the public or State. In light of these factors, when assessing a bail application, the Court is required to form a *prima facie* opinion based on these broad guidelines, without delving into the merits of the evidence, as doing so could potentially prejudice the rights of both the accused and the prosecution.

5. Conclusion:-

Turning back to the present case in hand, the petitioner has been directly and specifically implicated in the opening of multiple bank accounts using forged documents. It is alleged that the petitioner received substantial sums of money, including Rs. 5 crore from Sanjay Kumar Garg, Rs. 38 lakh from Gurmehar Singh, Rs. 24 lakh from Baljinder Singh, Rs. 3.50 crore from Sushank Sharma, Rs. 25 lakh from Yogesh Mahajan, Rs. 44 lakh from Vijay Kumar Juneja, and Rs. 20 lakh from Ashish, all of which were transferred into the petitioner’s bank account. In light of these serious allegations, this Court finds that, *prima facie*, the petitioner is involved in a significant fraud, having deceived both the complainant and other individuals of their hard-earned money. Furthermore, the petitioner has a dubious criminal history, with involvement in other cases,

including one of a similar nature. Consequently, granting the petitioner regular bail at this stage would provide him with an opportunity to engage in further illicit activities, which must be prevented.

6. DECISION:-

In view of the foregoing discussions, this Court is of the considered opinion that, given the specific allegations and the prima facie case against the petitioner, coupled with the fact that a substantial sum of money remains to be recovered, the petitioner is not entitled to the concession of regular bail at this juncture. Accordingly, the present petition is dismissed as lacking merit, with no order as to costs.

However, it is clarified that the observations made in this order are solely for the purpose of deciding the present bail application, and the trial Court is at liberty to adjudicate the matter in accordance with the law.

02.12.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No