

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

114

CRM-M-62251-2024

Date of Decision : December 20, 2024

SUSHIL KUMAR MALIK

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Partap Singh, Advocate with
Mr. Vikas, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through this petition cast under Section 483 of the B.N.S.S., the petitioner prays for him being granted the concession of regular bail, in case FIR No.166 dated 23.04.2021, under Sections 420, 467, 468, 471, 120-B of the IPC (Section 406 of the IPC was added and Section 120-B of the IPC was deleted subsequently), registered at P.S. Chandimandir, District Panchkula.

2. The genesis of the present FIR is embodied in the complaint made by one Sunil Chahal. The relevant extract of the complaint, as became narrated in paragraph No.2 of the order dated 30.07.2024, wherethrough, the learned Additional Sessions Judge, Panchkula, has declined to grant bail to the petitioner, is reproduced hereunder:-

“.....It is contended in the complaint that he is resident of Panchkula and is running a welfare trust under the name and style of Chander Shekhar Azad Charitable Trust and is moving the

complaint against Jasmer Singh, Sushil Malik (present petitioner) and Amritpal regarding fake appointment of clerk and peon in Hon'ble High Court of Punjab and Haryana. It is contended that the above mentioned accused persons were involved in fake appointment case of clerks and peons through SSSC. On 23.04.2020 accused Amritpal approached him with two appointment letters of person namely Sushil Malik (present petitioner) with a list of appointed candidates which he handed over to SHO, Chandimandir. It is also contended that the person namely Jasmer Singh is the mastermind of the case, he is a habitual offender and has a questionable character in society. Request was made to take strict action particularly against him. Accused Amritpal is working on the direction of Jasmer Singh, who is main master mind of case and uses his Xcent car No.HR05AW-3212. Accused Amritpal approached him with 9 pages of appointment letter. He also submitted audio and video recording of this person. Accused Amritpal ₹ also demanded 8 Lacs from him and he has also audio recording of the same. He further alleged that accused Amritpal also personates his identity as Secretary of High Court Judge and appointed in Court No.27.....”

3. Record reveals that, the main accused Amritpal was arrested in the present case on 24.04.2021 and the trial launched against him culminated in his conviction. The role of the petitioner has surfaced during the course of further investigation, and that too, after three years of the registration of the present FIR. In order to connect the petitioner with the alleged crime, the prosecution makes huge dependence upon the CDR and mobile tower location to claim that the petitioner was present at the spot at the relevant time.
4. The learned counsel for the petitioner opts not to address any arguments on merits of the case, rather confines the sphere of his

arguments only to the period of incarceration suffered by the petitioner, besides the stage of trial. He submits that, since the trial, which is a Magisterial trial, is at its initial stage inasmuch as only 01 witness, out of 25 prosecution witnesses, has yet been examined so far, therefore, no fruitful purpose would be served by keeping the petitioner behind the bars, who has already suffered incarceration of approx. 11 months.

5. Although the learned counsel for the petitioner does not pitch any arguments on merits, yet he submits that no document, stamp or seal has been recovered from the petitioner, therefore, there is nothing incriminatory available against him.

6. The learned State counsel although vociferously opposes the grant of regular bail to the petitioner on the ground of serious allegations being levelled against him, however, on instructions imparted to him by the official concerned, he verifies that only 01 witness, out of 25 prosecution witnesses, has yet been examined so far.

7. This Court has heard the submissions made by the learned counsels for the parties and perused the record.

8. Be that as it may, considering the fact that: (i) as per the custody certificate dated 18.12.2024, as placed on record today by the learned State counsel, the petitioner has suffered incarceration of 11 months and 01 day till 18.12.2024; (ii) as per the custody certificate, the petitioner has no criminal antecedents; (iii) there is no likelihood of the trial, which is a Magisterial trial, concluding anytime soon inasmuch as only 01 witness, out of 25 prosecution witnesses, has yet been examined

so far; this Court deems it appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

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

December 20, 2024
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(KULDEEP TIWARI)
JUDGE

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