



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

110

CRM M-21053-2022

Date of Decision:31.07.2025

Chitra and another		...Petitioners
	Versus	
State of Haryana		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate
Mr. R.S. Bagga, Advocate
for the petitioners.

Mr. Rajinder Kumar Banku, Sr. DAG, Haryana

Mr. Sartaj Singh Narula with
Mr. G.S. Dhillon, Advocate
for the complainant.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.297 dated 23.04.2022 registered under Sections 420, 467, 468, 471, 506 and 120-B IPC at Police Station Sector 58, District Faridabad.

2. The present case was heard by a Co-ordinate Bench of this Court on 25.05.2022 and after noticing the detailed submissions

by all the parties, made the following observations, while releasing the petitioner on *interim* bail:-

“The present petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.297 dated 23.04.2022, under Sections 420, 467, 468, 471, 506 & 120-B of the IPC, registered at Police Station Sector-58, District Faridabad.

Mr. Vinod Ghai, Senior Advocate assisted by Ms. Kanika Ahuja, Advocate has submitted that both the petitioners, who are husband and wife are in custody since 26.04.2022 and the matter is at the investigation stage. He further submitted that the lodging of the present FIR was an abuse of the process of law. He also submitted that the dispute in the present case was pertaining to two sisters inter se, who were share holders of an incorporated company. Petitioner No.1 is the sister of the complainant, namely, Anamika and they are seven sisters. He further submitted that primarily there are three allegations against the petitioners. Firstly, that petitioner No.1 has illegally and without the consent of the complainant transferred Rs.70 lacs from her account in the account of petitioner No.1 in the year 2009. Secondly, both the petitioners got transferred shares belonging to the complainant to the tune of 3,60,000 shares which was 51% of the company's paid capital in the name of petitioner No.1 and thirdly, the petitioners got some documents fabricated including the Resignation Letter as a Director qua the complainant,

Indemnity Bond, Share Transfer Deed and also Gift Deed.

Learned Senior Counsel further submitted that in fact the subject matter of the present dispute arose in the years 2009 & 2010 and the transfer of Rs.70 lacs was as a gift from the complainant to petitioner No.1 and he made reference to Annexure P-13 which is a certificate issued by the complainant, namely, Anamika to confirm that the Gift Deed was executed in the years 2009 & 2010 pertaining to a total amount of Rs.70 lacs which were transferred from her account to the account of her sister i.e. Petitioner No.1 out of love and affection. He also submitted that this document was executed by the complainant and the certificate issued by the complainant in pursuant to the notice issued by the Income Tax Department and the same also finds mention in the earlier inquiry conducted by the Police. So far as the transfer of aforesaid 3,60,000 shares is concerned, he submitted that the same are transferred by the complainant herself and has also made reference to Annexure P-12 and submitted that the transfer was duly entered in the documents of the Registrar of Companies in the year 2010 itself. So far as the third allegation pertaining to allegation of fabrication of document is concerned, the same was also false allegation in view of the fact that in pursuance of the resolution of the company, the shares were got transferred and the complainant herself had transferred the amount of Rs.70 lacs and for that purpose a certificate as aforesaid was also issued and was given by the Income Tax Department

and otherwise also it was a case where the allegation of fraud is yet to be determined at the time of trial.

Learned Senior counsel also submitted that in fact the complainant had earlier also filed a complaint with regard to the same subject matter which is about 12 years ago on 17.05.2019 vide Annexure P 6 and the same was thoroughly inquired into by the Police and vide Annexure P-7, the Chowki Incharge of the Police Chowki Sainik Colony, Faridabad came to the conclusion that the complainant could not produce any evidence regarding the allegation, and therefore, no further action was taken on the complaint. The said inquiry report was thereafter sent to the Assistant Commissioner of Police, NIT, Faridabad and vide Annexure P-9 dated 20.07.2019, the same was approved by the Assistant Commissioner of Police, NIT, Faridabad. Since it was concluded that the dispute between the parties was of civil nature and a civil suit is also pending in the Civil Court and apart from the same no truth was found in the allegation levelled in the complaint, therefore, it was directed that the complaint be filed in the office.

Learned Senior Counsel further submitted that so far as the nature of aforesaid civil suit is concerned, he referred to Annexure P-5 which is a civil suit for declaration, partition and rendition of accounts, filed by one Smt. Suman Bhatia, who was another sister of petitioner No.1 and the complainant, who was claiming her own rights in the aforesaid company and the said civil suit is still pending. It has been further submitted by learned Senior Counsel that once the

Police has already inquired into the matter in the year 2019 and the conclusion of the Police was got approved by the Assistant Commissioner of Police, NIT, Faridabad in the year 2019 and that too regarding the subject matter pertaining to the year 2009 & 2010 which is about 12 year ago, there was no occasion for the Police to have registered the present FIR unless some reasoning was given or some further material was placed before the police. However, in the present case, nothing has come on record to show as to what occasion arose for lodging of the present FIR. He also submitted that rather when the present FIR was lodged by the complainant, she concealed this fact from the police in her complaint and did not disclose that earlier it was the same subject matter which was inquired into by the Police and approved by the Assistant Commissioner of Police, NIT, Faridabad, and therefore, the complainant herself was guilty of concealment of material facts. He further submitted that the said inquiry was done by the Police Officers of Police Post Sainik Colony, Faridabad in the year 2019, which was approved by the Assistant Commissioner of Police, NIT, Faridabad and the present FIR has been lodged at another Police Station i.e. Police Station Sector-58, District Faridabad by concealment of material facts.

Learned Senior Counsel also submitted that the subject matter of the present case was pertaining to 12 year old dispute and the subject matter was essentially a civil dispute, if any, between the parties. He further submitted that the petitioners are husband and wife and they have two minor children and the

petitioners are already in custody from 26.04.2022, and furthermore the offences are triable by Magistrate and therefore, in view of the aforesaid position, they may be considered for the grant of bail.

On the other hand, Mr. Naveen S. Panwar, learned Deputy Advocate General, Haryana has submitted that an affidavit has been filed by the Assistant Commissioner of Police, Mujesar, District Faridabad on behalf of the respondent/State and while referring to the affidavit filed by the State, he submitted that there are direct allegations against the petitioners in the FIR and the investigation of the case is still in progress, and therefore, the petitioners are not entitled for the grant of regular bail.

Mr. R.S. Rai, Senior Advocate assisted by Ms. Rubina Virmani, Advocate also caused appearance on behalf of the complainant and has addressed arguments. Learned Senior Counsel for the complainant submitted that the allegations are pertaining to fraud whereby the allegation is that the petitioners have fabricated and forged the documents, and therefore, the delay will not be of much significance in the present case. He further submitted that as per the reply filed by the State, the petitioners, on disclosure statement before the Police, have admitted that they had destroyed the original Share Transfer Deed and Resignation Letter. He also submitted that the document vide Annexure P-13, which has been relied upon by the learned Senior Counsel for the petitioners was not in existence. He further submitted that it is not only that the shares have been transferred in the name of the petitioners but rather

they have also withdrawn large amount of about Rs.40 crores towards salary and created another company which was created by the petitioners in which both of them are Directors and therefore, wrongful loss has been caused to the complainant.

During the course of arguments, this Court had put a specific query to the learned Deputy Advocate General, Haryana to explain as to what was the reason that once inquiry was conducted in the year 2019 pertaining to cause of action which has arisen in the year 2009-2010 and the Police found nothing against the petitioner and which was thereafter approved by the Assistant Commissioner of Police, NIT, Faridabad, then as to whether there was any justifiable reason to again look into the matter and lodge an FIR or not.

Learned Deputy Advocate General, Haryana submitted that the Investigating Officer is present in Court and after seeking instructions from him, he submitted that he may be granted some time to file an affidavit regarding the same as such information was not available as of now. Further a query was raised to the learned Deputy Advocate General, Haryana that the petitioners have specifically stated in Paras 7 & 8 of the petition in detail that earlier the complaint against them qua the same subject matter was closed by the Police with a verification from the Assistant Commissioner of Police, NIT, Faridabad but while filing affidavit, the Assistant Commissioner of Police, NIT, Faridabad has stated nothing regarding the same in the preliminary submissions made in the affidavit and while replying to

Para Nos.7 & 8, it has just been stated in one line that the complaint was not properly inquired at that time.

This Court is of the view that such kind of reply was not only evasive but was also misleading.

Learned Deputy Advocate General, Haryana further informed the Court that in fact when the affidavit was to be filed before this Court, the same was sent for vetting in the Office of Advocate General Haryana and various objections were raised by the concerned Law Officer in this regard but the Police Officials did not remove the objections and consequently the Law Officer refused to vet the affidavit. Upon this, the Police Officer rather insisted on filing of the affidavit as such either vetted or not vetted and in this way the present affidavit has been filed in this Court without being vetted from the Office of Advocate General, Haryana and against the advice of the Law Officer.

Learned Deputy Advocate General, Haryana further stated that he was also not informed as to whether the reply was vetted or not. One of the primary argument raised by the learned Senior Counsel for the petitioner is that once an inquiry was being conducted which was approved at the level of Assistant Commissioner of Police wherein nothing was found against the petitioners in the year 2019 then how an FIR was registered in the absence of any further material or any justifiable reason. The State was duty bound to have explained this position before this Court especially when specific averments were made in Para Nos.7 & 8 of the petition”.

3. During the course of arguments, learned senior counsel for the petitioners has reiterated the above submissions and submitted that since the grant of *interim* regular bail on 25.05.2022, the petitioners have not misused the concession of interim bail in any manner, for the last more than 03 years. Even, the petitioners had cooperated with the Investigating Agency and the *challan* has been presented against them. Even, the charge has been ordered to be framed by the trial Court against the petitioners. Consequently, the custody of the petitioners will not serve any meaningful purpose.

4. On the other hand, learned State counsel assisted by the learned counsel for the complainant have vehemently opposed the prayer made by the learned counsel for the petitioners on the ground that there are serious allegations against the petitioners and the petitioners are not entitled for the concession of regular bail.

5. I have heard learned counsel for the parties and perused the record.

6. At this stage, this Court is of the considered view that the *interim* bail was granted to the petitioners on 25.05.2022 and since then they have been continuing on *interim* bail. Even, there is no allegation that the petitioners had ever misused the concession of *interim* bail in any manner or they did not cooperate with the Investigating Officer in the present case. Rather after completion of the investigation, the *challan* has already been presented before the

competent Court of law and charge has been framed. Thus, no purpose will be achieved by sending the petitioners behind the bars. Consequently, the *interim* order dated 25.05.2022 is made absolute. The petitioners shall remain on bail, during the course of trial on the bail bonds/surety bonds which have already been submitted by them before the concerned Court.

7. Since, the FIR was registered on 23.04.2022 and the present case remained pending for the last more than 03 years, the trial Court is directed to conclude the trial expeditiously, in accordance with law.

31.07.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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