

CRM-M-54615 of 2021 (O&M)

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

CRM-M-54615 of 2021 (O&M)

Reserved on: -16.12.2022

Date of decision: 21.12.2022

Malwinder Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. A.P.S. Deol, Sr. Advocate, with
Mr. H.S. Deol, Advocate, for the petitioner.
Mr. Ravinder Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

CRM-34837 of 2022

This application has been filed by the applicant-petitioner for placing on record statements of prosecution witnesses as Annexures P-3 to P-8.

In view of the averments made in the application, same is allowed. Statements of prosecution witnesses are taken on record as Annexures P-3 to P-8, subject to just exceptions.

CRM-49009 of 2022

This application has been filed by the applicant-petitioner under Section 482 Cr.P.C. seeking permission to add offences under Section 66-C, 66-D of the Information Technology Act, 2000 in the headnote of the petition having been added lateron after filing the petition.

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Notice.

Mr. Ravinder Singh, AAG, Punjab, accepts notice on behalf of the respondent-State and submits that he has no objection to the prayer made in the application.

In view of the averments made in the application, same is allowed. Offences under Sections 66-C and 66-D of the Information Technology Act, 2000 are permitted to be added in the headnote of the petition. Registry to make necessary correction in the petition.

CRM-49010 of 2022

This application has been filed by the applicant-petitioner for placing on record some documents as Annexures P-9 to P-16.

In view of the averments made in the application, same is allowed. Documents are taken on record as Annexures P-9 to P-16 subject to just exceptions.

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This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.76 dated 07.07.2021 under Sections 419, 420, 465, 467, 468, 471, 120-B IPC (Sections 66-C and 66-D of the Information Technology Act, 2000 added later on) registered at Police Station City 1, Malerkotla, District Sangrur.

As per prosecution, complainant Sunil Kumar son of Vijay Kumar is resident of Mohalla Maan Ka village Bhadaur District Barnala, Tehsil Tapa District Barnala and he alleged that after completion of his studies he was in search of some job. Complainant is known to Jasvir Singh Dhammi of village Bhadaur. Complainant contacted Jasvir Singh Dhammi

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and complainant disclosed him that certain posts of sub inspectors in Punjab Police were to be advertised. Jasvir Singh Dhammi told him that Malwinder Singh (present petitioner) was the official in Punjab Police and he was closely known to him. While the petitioner had known to Palwinder Singh posted as Reader in the office of DGP and he could provide such job easily. That official Malwinder Singh (petitioner) used to remain in touch with Palwinder Singh Reader. Petitioner also got provided jobs to certain persons in Punjab Police, but for that he was to be paid money. Upon such assurance from Jasvir Singh Dhammi, complainant had given amount of Rs.16,00,000/- in favour of Jasvir Singh Dhammi. Jasvir Singh Dhammi had taken complainant to the petitioner and that amount of Rs.16,00,000/- was given to him. Complainant was assured that there was no need to appear for written test or physical test and he would get appointment letter along with call for medical test, for the post of sub inspector, through email. Later on one letter no.1419/S dated 18.06.2021 was received through email and it was mentioned therein that after getting the medical test done on 22.06.2021, he was to report in the office of SSP Malerkotla. However, complainant came to know that such letter was fake and infact police official Malwinder Singh (petitioner) in connivance with Palwinder Singh and certain such persons defrauded him. After inquiry, case was got registered against Malwinder Singh (petitioner) and Palwinder Singh. Petitioner was arrested and recovery of laptop, printer, mobile set and amount of Rs.9,00,000/- was made from his possession.

Learned senior counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in the present case and he has no

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concern with the alleged offence. Challan has been presented. He further submits that out of total 33 prosecution witnesses, 15 witnesses have been examined. He further submits that during trial, material witnesses PW-2 to PW-13 (including complainant i.e. PW-2 Sunil Kumar) did not support the prosecution version and have turned hostile. He further submits that two prosecution witnesses have gone abroad and there is no possibility of their arrival in near future. Petitioner is in custody since 10.07.2021. He further submits that petitioner is not involved in any other case. He also submits that material witnesses have already been examined in the trial proceedings. The next date fixed before the trial Court is 23.12.2022. Conclusion of trial is likely to take a considerable time. He submits that no fruitful purpose would be served by detaining the petitioner behind bars during trial.

On the other hand, learned State counsel opposed the prayer for grant of bail to the petitioner while placing custody certificate on the record. However, he does not dispute the fact that petitioner is not involved in any other case and trial is likely to take considerable time to conclude as well as material witnesses have already been examined and have turned hostile.

Keeping in view the custody period of the petitioner i.e. 01 year, 04 months and 24 days; challan has already been presented; material witnesses have resiled from their statements and have not supported the case of the prosecution; petitioner is not involved in any other case and the fact that the trial is likely to take a considerable time to conclude; out of 33 prosecution witnesses only 15 have been examined, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety

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bonds to the satisfaction of Illaqa Magistrate/Trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly. The observation made here-in-above shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of evidence available on record.

However, it is made clear that in future if the petitioner is found involved in any other case of similar nature, respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioner in present case.

The petition stands disposed off accordingly.

21.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No