

Akash Bhalla and Anil Bhalla Vs. State of Haryana

HRPK01-00-4154-2022



Presented on : 07.11.2022
Registered on : 07.11.2022
Decided on : 17.11.2022
Duration : 0 year, 0 month, 10 days

**IN THE COURT OF
Additional Sessions Judge
at Panchkula.
(Presided Over by Sunil Kumar-II)
UID No.HR-0233**

BA/1403/2022

1. Akash Bhalla, aged 35 years S/o Sh. Anil Bhalla, R/o House No.474-P, Sector-2, Panchkula.
2. Anil Bhalla, aged 55 years S/o Sh. Charan Dass, R/o House No.474, Sector-2, Panchkula.
(At present confined in Central Jail, Ambala)
.....Applicants/Accused persons.

VERSUS

State of Haryana.

.....Respondent.

FIR No.296 dated 28.06.2022.
Under Sections –384/406/420/467/468/471/506/120-B of
IPC
Police Station : Sector-05, Panchkula.

BAIL APPLICATION UNDER SECTION-439 OF Cr.P.C.

Present: Sh. Mahesh Goel, Advocate for the applicants/accused persons.
Sh. Rajbir Singh, Ld. Public Prosecutor.

ORDER:

The instant application for bail under Section-439 of Cr.P.C. has

(Sunil Kumar-II)
ASJ, PKL 17.11.2022

been filed by the applicants/accused persons named above with the averments that they have been implicated falsely in the instant case at the instance of the complainant. No offence has been committed by them. Prior to registration of the instant FIR, the complainant filed complaint No.1507-PW, SD No.62279 dated 14.12.2020 before the Deputy Commissioner of Police, Panchkula on 14.12.2020 with the same allegations. Said complaint was duly investigated by the Police and the same was found as false and baseless one. On the same set of allegations, the instant FIR has been got lodged by the complainant. The police has not obtained the report of the handwriting and finger print expert before lodging the present FIR. The applicant/accused Anil Bhalla is in custody since 09.09.2022 whereas the applicant/accused Akash Bhalla is in custody since 28.09.2022. The trial will take long time and no useful purpose would be served by keeping the applicants/accused persons behind the bars. No recovery is to be effected from the applicants/accused persons. The custodial interrogation of the applicants/accused persons is not required. The matter between the parties is of civil nature and the present FIR has been got registered by the complainant in order to create pressure upon the applicants/accused persons and their family members. The matter has already been compromised between the parties and the complainant has no objection if bail is granted to applicants/accused persons. Co-accused Narinder Khillan has been admitted to bail by this Court vide order dated 26.10.2022. The applicants/accused

persons filed an application for regular bail and the same was dismissed by the Court of Sh. Nitin Raj, learned Chief Judicial Magistrate, Panchkula vide order dated 27.10.2022. Now the investigation in the case is complete and the report under Section-173 of Cr.P.C. has been submitted in the Court of Sh. Nitin Raj, learned Chief Judicial Magistrate, Panchkula on 29.10.2022. The case is fixed for consideration on charge on 18.11.2022. The entire case is based upon documentary evidence and all the documents are in the custody of Police. Hence, judicial custody of the applicants/accused persons is not required. The ingredients of the alleged offences are not fulfilled. All the offences are triable by Judicial Magistrate Ist Class. The applicants/accused persons undertake not to tamper with the evidence and not to put any kind of pressure upon the witnesses of the prosecution if released on bail. The applicants/accused persons would make themselves available for interrogation by the Police as and when required. The applicants/accused persons undertake to appear on each and every date of hearing. It is on the above grounds that the applicants/accused persons have prayed for regular bail under Section-439 of Cr.P.C.

2. On notice of the bail application, reply to the same through the learned Public Prosecutor has been filed. In the reply, it is stated that the instant FIR has been registered on the basis of a complaint given by one Deepak Kumar son of Mahender Singh, resident of House No. 401, Block-B, Regalia Tower, Dhakauli, Mohali, Punjab. The complainant alleged that he

runs a financial consultant firm under the name and style of Him Corporate Services rendering the services across the country. He introduced his clients Mr. Alapati Vara Prasad, Mr. Umed Singh, Mr. Irfan Jabbar Chini and one Sanjeev Garg to Anil Bhalla, Akash Bhalla and Narinder Khillan who projected themselves as private financiers and multinational bank agents. Said clients were introduced between the years, 2018 to 2020 for the purpose of obtaining business loan from Anil Bhalla, Akash Bhalla and Narinder Khillan. Said Anil Bhalla, Akash Bhalla and Narinder Khillan made the complainant to believe that they had good contacts and they could arrange loan for Indian business entities from Rs.50 crore to Rs.500 crore. They told the complainant that they would require a set of copies of all existing properties of every client and thereafter, they would send the write up of business to prospective overseas investors/lenders. If the investors/lenders were satisfied, they would take 1% to 2% of the loan amount along with a set of signed blank papers and the process would be started. If the work is not done within 60 international working days, they would refund double of the amount and would return the set of signed blank papers etc. The complainant was duped of Rs.5,30,000/- by said Anil Bhalla and his gang members and said amount was paid by the complainant from his bank accounts. Due to urgency, the complainant borrowed unsecured bridge loan of Rs.4,50,000/- at 10% interest per month from Anil Bhalla and he used to pay the monthly interest from his bank account as well as in cash. In this

process, the complainant handed over two sets of signed blank legal papers along with ten cheques. Thereafter, Anil Bhalla and Narinder Khillan failed to fulfil their commitments towards the clients of the complainant. The complainant asked Anil Bhalla to return all the blank documents, signed blank stamp papers etc. whereupon he was threatened by said Anil Kumar Bhalla. Resultantly, the complainant gave a complaint to the Deputy Commissioner of Police, Panchkula on 14.12.2020 but no action was taken on the said complaint. Soon after, Anil Bhalla and accused persons namely Akash Bhalla and Narinder Khillan fraudulently handed over one of the cheques of the complainant to one Narinder son of Baljeet Singh, resident of Flat No. 101, GH-14, Sector-24, Panchkula though the complainant never met him or communicated with him. Said Narinder son of Baljeet Singh fraudulently tried to encash the cheque but the same got bounced. A fake and frivolous complaint was filed against the complainant by said Narinder son of Baljeet Singh in collusion with Anil Bhalla. The other four cheques bearing No. 36 dated 18.12.2020 amounting to Rs.10 lakh, cheque No.00037 dated 25.01.2021 amounting to Rs.24 lakh, cheque No.000038 dated 10.08.2021 amounting to Rs.45 lakh and cheque No.000039 dated 22.04.2022 amounting to Rs.75 lakh were got bounced by Anil Bhalla and other accused persons. Said cheques were presented by Narinder son of Baljeet Singh, Anil Bhalla, Narinder Khillan and Akash Bhalla respectively. In this way, said Akash Bhalla, Anil Bhalla and Narinder Khillan committed

breach of trust, cheating, fraud and misused the blank signed cheques. It is on the basis of allegations as summarized above that the instant FIR No. 296 dated 28.06.2022 came to be registered under Sections-384/406/420/467/468/471/506/120-B of IPC. Investigation was initiated. In the course of investigation, statements of witnesses were recorded. The record was obtained from the banks. In the course of investigation, it was found that cheque No. 000036 amounting to Rs.24 lakh was filled by accused Anil Bhalla and same was presented in his account maintained with AU Small Finance Bank. Similarly, cheque No. 000037 amounting to Rs.10 lakh was presented by Narinder son of Baljeet Singh on 18.12.2020 in his account maintained with HDFC Bank whereas cheque No.000038 amounting to Rs.45 lakh was presented by Jasbir Singh son of Haakam Singh in his account maintained with Axis Bank. Accused Akash Bhalla presented cheque No.000039 amounting to Rs.75 lakh on 22.04.2022 in his account. Production warrants were got issued against accused Anil Bhalla and Narinder Khillan for 09.09.2022 and they were produced before the Court. They were joined in the investigation with the permission of the Court and were duly arrested. Their confessional statements were recorded. It was found that accused Anil Bhalla procured loan of Rs.5 lakh for the complainant Deepak from accused Narinder Khillan at 10% rate of interest out of the amount of Rs.5,30,000/- given to Anil Bhalla by complainant Deepak. He deducted advance interest of Rs.50,000/- from the said amount

and paid the amount of Rs.4,50,000/- to complainant Deepak. Said amount was given to the complainant in December, 2019 and accused Anil Bhalla used to receive interest amount of Rs.50,000/- per month up to December, 2020. As a security for the loan amount, five blank cheques drawn on Standard Chartered Bank, Sector-9-C, Chandigarh and five legal bonds with the signatures of the complainant were taken by accused Anil Bhalla. Since the cheques given by the complainant got dishonored, the complaints under Section-138 of Negotiable Instruments Act were filed against the complainant Deepak in Panchkula Courts. Accused Akash Bhalla was duly arrested on 28.09.2022 and his confessional statement was recorded. On completion of the investigation, the report under Section-173 Cr.P.C. was submitted in the court on 18.10.2022. The details of as many as 17 cases registered under the similar Sections against the applicants/accused persons are given in the reply to the bail application. If the applicants/accused persons are granted bail, they may threaten the complainant and the witnesses. Investigation may be influenced by them. by means of inducement to the complainant. It is on the above grounds that the application for bail is sought to be dismissed.

3. I have gone through the contents of the bail application as well as the reply filed to the same. Arguments led by learned counsel for the applicant/accused as well as learned Public Prosecutor have been heard at length by me.

4. The applicant/accused Anil Bhalla is in custody since 09.09.2022 whereas the applicant/accused Akash Bhalla is in custody since 28.09.2022. The report under Section-173 Cr.P.C. after completion of the investigation has since been submitted in the Court concerned on 18.10.2022 as is clear from the reply to the bail application. It means that nothing remains to be investigated so far as the applicants/accused persons are concerned. The complainant is also present in the court and he has stated that he does not have any objection if bail is granted to the applicants/accused persons. The trial in the case would take sufficient time to conclude and there is no reasonable likelihood of the applicants/accused persons escaping from the process of law. In the authority titled as **Prabhakar Tewari Vs. State of U.P. & anr., 2020 (1) RCR (Criminal) 831**, it has been observed by Hon'ble Supreme Court of India that the factors like offence being grave and serious in nature and that several criminal cases are pending against the accused by themselves can not be basis for refusal of prayer for bail. The facts and circumstances of each particular case have got to be appreciated by the Court. In the light of the facts as detailed above, it would not be justiciable to keep the applicants/accused persons behind the bars any longer.

5. For the reasons recorded above, the application for bail under Section-439 of Cr.P.C. is allowed and the applicants/accused persons Anil Bhalla and Akash Bhalla are admitted to bail subject to furnishing personal

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bond in the sum of ₹50,000/- each with one surety of the like amount to the satisfaction of the trial Court/Duty Judicial Magistrate, Panchkula. A copy of this order be forwarded to the learned trial Court/Duty Judicial Magistrate, Panchkula forthwith. Thereafter, the case file be consigned to the record room after necessary compliance.

Dated :17.11.2022

(Rajwinder)

(Sunil Kumar-II),
Additional Sessions Judge,
Panchkula. (UID : HR0233)

Note: Each of the -9- pages of this order has been checked and signed by me.

(Sunil Kumar-II),
Additional Sessions Judge,
Panchkula.

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Present: Sh. Mahesh Goel, Advocate for the applicants/accused persons.
Sh. Rajbir Singh, Ld. Public Prosecutor.

Arguments on the application for bail under Section-439 of Cr.P.C. heard. Order pronounced. Vide my separate detailed order of even date, the application for bail under Section-439 of Cr.P.C. filed by the applicants/accused persons Anil Bhalla and Akash Bhalla is allowed and both of them are admitted to bail subject to furnishing personal bond in the sum of ₹50,000/- each with one surety of the like amount to the satisfaction of the trial Court/Duty Judicial Magistrate, Panchkula. A copy of this order be forwarded to the learned trial Court/Duty Judicial Magistrate, Panchkula forthwith. Thereafter, the case file be consigned to the record room after necessary compliance.

Announced in open court.

Dated 17.11.2022

(Rajwinder)

(Sunil Kumar-II),

Addl. Sessions Judge,

Panchkula. UID : HR0233

(Sunil Kumar-II)

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