

**IN THE COURT OF SH. DEVINDER KUMAR GUPTA, ADDITIONAL
SESSIONS JUDGE, BARNALA. (UID NO. PB0520)**

BA no. 144 of 2023
CNR No. PBBR01-000464-2023
Decided on.08.02.2023

Harish Kumar Wadhwa aged about 42 years son of Sh. Gobind Ram Wadhwa,
resident of House No. 32, Street No. 24, Tripuri Town, Patiala.

.....Accused/applicant.

Versus.

State of Punjab

.... Respondent.

FIR No. 222 of 12.08.2015.
Under Sections: 420, 409, 120-B of IPC & Section 4 and 5 of
Prize Chit Fund and Money Circulation Act.
P.S: City Barnala.

Bail application under Section 439 Cr.P.C.

Present: Sh. J.S. Kwatra, Advocate counsel for accused/applicant.
Sh. Dilpreet Singh, APP for the State.

ORDER:-

1. This order of mine shall dispose of above mentioned bail application moved by accused/applicant Harish Kumar Wadhwa in the above noted case for grant of regular bail under section 439 Cr.PC.
2. Notice of bail application was issued to the State and learned Addl. PP for the State has put in appearance. Record of trial Court summoned and received.
3. I have heard the learned Counsel for accused/applicant, learned Addl. PP for the State and also perused the record of trial court file.
4. The learned counsel for accused/applicant has argued that the accused/ applicant is quite innocent and has been falsely implicated in the present case. He further argued that the accused/applicant is in custody since 25.07.2022.

He further argued that the challan has already been presented however, the conclusion of its trial will take considerable time and no useful purpose would be served by detaining the accused/applicant behind the bars any further. The accused/applicant will abide by all the terms and conditions as imposed by this Court. He further submitted that the accused/applicant is diabetic and requires medical treatment. Lastly, a prayer for grant of regular bail to the accused/applicant has thus, been made.

5. On the other hand the learned Addl. PP for the State has vehemently opposed the bail application on the ground gravity and seriousness of the offence. He further submitted that the accused/applicant alongwith his co accused has committed the offence of criminal breach of trust and cheating and duped the complainant and other persons for a huge amount of approximately Rs.5,97,21,910/- in a Chit Fund Fraud. He further argued that the accused/applicant has not surrendered in the court after dismissal of his bail application under section 438 Cr.PC by the court vide order dated 06.05.2019 despite so directed by the court of the then learned Additional Sessions Judge, Barnala and thereafter he has been declared as proclaimed person. He further submitted that the chances of his fleeing away and tampering with the prosecution evidence cannot be totally ruled out. He has further submitted that co accused who is the wife of the present accused/applicant is still at large. He has further submitted that due to absence of accused the trial is lingering since long, therefore, no ground for grant of regular bail to the accused/applicant is made out. He has prayed for dismissal of the bail application.

6. After giving thoughtful considerations to the rival contentions and going through the record of the case, this court is of the considered view that the instant bail application deserves dismissal.

As per prosecution allegations, the present accused/applicant in connivance with his other co-accused have cheated and duped the complainant and other persons for a huge amount of approximately Rs.5,97,21,910/- in a Chit Fund Fraud. Thus, allegations against the accused/applicants are very serious in nature.

From perusal of record, it reveals that in the application for grant of bail under section 438 Cr.PC filed by the accused/applicant, he was granted interim bail vide order dated 27.11.2017, but thereafter, the anticipatory bail application filed by the co accused Sonia Wadhwa has been dismissed by the Hon'ble High Court vide order dated 15.10.2018 passed in CRM bearing no. 43292 of 2016 and it is mentioned in the order passed by the Hon'ble High Court that Sonia Wadhwa was granted interim bail because of the compromise arrived at between the parties and husband of the petitioner (present bail applicant) has also been granted interim bail because of the interim order passed by the Hon'ble High Court in favour of the petitioner i.e. Sonia Wadhwa and thereafter, the anticipatory bail filed by the present accused/applicant has also been dismissed by the court of Sh.Baljinder Pal Singh, the then learned Additional Sessions Judge, Barnala vide order dated 06.05.2019 and while dismissing the bail application, the accused/applicant was also directed to surrender in the trial court however, the accused/applicant has not surrendered himself in the trial court and vide order

dated 10.05.2019, the learned trial court has issued his non bailable warrants of arrest and thereafter after adopting necessary formalities, the accused/applicant was declared as proclaimed person vide order dated 21.10.2019 by the learned trial court. Thereafter, the accused/applicant has been arrested in the present case on 25.07.2022 after about 3 years.

Though, the challan has already been presented, but there is every likelihood that if granted bail, the accused/applicant may attempt to hamper the process of the trial and pressurize the witnesses in one way or the other. Moreover, due to previous conduct of the accused/applicant, possibility of his fleeing away from the trial cannot be totally ruled out. So far as the contention raised by the learned counsel for the accused/applicant that the accused/applicant is a diabetic and needs medical treatment is concerned. the problem of diabetes is a general problem and the jail authorities are well equipped to manage and handle the same. Moreover, the accused/applicant can file an appropriate application for providing treatment or medical assistance before the trial court if, so required. In the given circumstances, without further delving into the merits of the case, the court is of the opinion that at this stage, no ground is made out to allow the present bail application. Consequently, the bail application is dismissed. Record of trial Court along with copy of this order be returned and the file of bail application be consigned to record room.

Pronounced:
February 08, 2023

(Devinder Kumar Gupta)
Additional Sessions Judge,
Barnala, (UID No.PB0520)

Rajiv Kumar
JW/I

BA no. 144 of 2023
CNR No. PBBR01-000464-2023

Harish Kumar Wadhwa vs. State

Present: Sh. J.S. Kwatra, Advocate counsel for accused/applicant.
Sh. Dilpreet Singh, APP for the State.

Learned APP for the State has put in appearance on behalf of
the State.

Trial Court record received. Arguments heard. Vide my separate
detailed order of even date the bail application is dismissed. Record of trial
Court along with copy of this order be returned and file of bail application be
consigned to record room after due compliance.

Pronounced:
February 08, 2023

(Devinder Kumar Gupta)
Additional Sessions Judge,
Barnala, (UID No.PB0520)

Rajiv Kumar
JW/1