

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

1. CRM-M-17814-2022 (O&M)

Mamta

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-17892-2022 (O&M)

Rituraj Yadav

...Petitioner

Versus

State of Haryana

...Respondent

**Reserved on : 11.05.2022
Pronounced on : 12.05.2022**

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Tanu Bedi, Advocate,
Mr. Nipun Saxena, Advocate,
Mr. Balvinder Sangwan, Advocate &
Ms. Mallika Dhillon, Advocate
for the petitioners.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Rajeev Kumar Yadav, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J.

Prayer in these petitions, filed under Section 439 read with Section 482 of the Cr.P.C., is for grant of regular bail to petitioners Mamta and Rituraj Yadav in FIR No. 9 dated 08.01.2022, registered under Sections 420, 465, 467, 468, 471, 506 and 120-B of the IPC Act at Police Station Manesar, District Gurugram.

Learned counsel for the petitioners has argued that as per allegations in the FIR, registered at the instance of complainant-Monesh Israni, it is alleged that the accused persons have played fraud and cheated him for an amount of Rs. 64.49 crores on the pretext of providing tenders for construction of housing projects of National Security Guards, Manesar (*hereinafter referred to as 'NSG, Manesar'*) by forging the documents of the office of Director General, NSG, Manesar and by opening and operating a fake bank account bearing No. 9210200000936255 in Axis Bank, NSG, Manesar in name of G.C. (Garison) NSG, Manesar.

It is further alleged that the complainant is the Director and authorized person of M/s Narain Dass R. Israni Co. (P) Ltd. and in the month of September, 2021, the Directors of the complainant-company were approached by co-accused Parveen Yadav (who is the husband of petitioner Mamta and real brother of petitioner Rituraj Yadav) pretending himself to be an IPS Officer and Station Commandant NSG by giving his mobile number and Aadhar Card number through co-accused Dinesh Mohan Sorkhi, who pretended to be an old friend of Parveen Yadav. Both the accused projected and allured the complainant that there are two big housing projects in NSG, Manesar and if the complainant gives his bid, they will get them allotted the work. The complainant was regularly called to NSG, Manesar campus by the aforesaid two persons and they would meet the accused in Officers' Mess of NSG, Manesar. On such allurements, the accused persons gave a letter dated 08.09.2021 to complainant for calling quotation for 740 type III residential quarters and another letter dated 16.10.2021 for calling quotation for construction of residential quarters, which was received by Speed Post. The complainant, believing the representation of the accused persons to be

genuine regarding aforesaid two tenders, deposited an earnest money of Rs. 17,71,56,000/- by way of Cheque No. 001811 dated 21.09.2021, drawn on Bank of Baroda in the name of "Office of CG (Garrison) Station Head Quarters NSG" and made another payment of Rs. 46,78,25,220/- by way of Cheque No. 001829 dated 03.11.2021, drawn on Bank of Baroda in the name of "Office of CG (Garrison) Station Head Quarters NSG". Both the cheques were cleared into the account No. 92102000036255 at Axis Bank, NSG, Manesar Branch. The accused provided a letter dated 22.10.2021 intimating the lowest bid (L-1) through post and acknowledged the documents, as per details given in the FIR. It was further stated that letter of acceptance of tender will be received in the first week of January, 2022 along with agreement and letter of intent. In the meantime, the accused persons used to visit the complainant and they would pretend to talking to various other persons in the office of NSG, Manesar and other vendors, who would supply various commodities to NSG, Manesar.

It is further stated in the FIR that for 02/03 days, accused Parveen Yadav and other co-accused stopped attending the phone calls of the complainant and when he visited the house of Parveen Yadav, he came to know that he along with his family has left the house and later on, it came to his notice that the entire act was a fraudulent act of cheating the complainant by preparing and using forged documents, which were even used for opening a new bank account in Axis Bank in the name of "Office of GC (Garrison) Station Head Quarters NSG" and "EMD for Central Warehouse NSG" and in that manner, the complainant has been cheated and defrauded of an amount of Rs. 64.49 crores.

Learned counsel for the petitioners further submitted that later on, during investigation, the police arrested both the petitioners and other accused.

Learned counsel, on behalf of petitioner Rituraj Yadav, has submitted that she is in fact the Branch Manager of Axis Bank, where the alleged bank account in the name of a Government office was opened by using fake documents. It is further argued that the petitioner had no knowledge that his brother Parveen Yadav is playing any fraud as he was posted as Assistant Commandant, NSG, Manesar and her husband, namely Naveen Kumar was also posted as Commandant in NSG, Manesar.

Learned counsel further argued that on the basis of the documents submitted by co-accused, the petitioner has opened the account and later on, the allegations are that the entire amount was siphoned off in the account of a company namely M/s Koshia Enterprises Pvt. Ltd., in which co-accused/petitioner Mamta, who is the wife of accused Parveen Yadav, is the Director and the authorized person and petitioner has no concern with the same.

Learned counsel for the petitioners, with regard to petitioner Mamta, has argued that she is the wife of co-accused Parveen Yadav and being a housewife, she was having no knowledge about the conduct of her husband.

Learned counsel for the petitioners has further argued that both the petitioners are in judicial custody for the last 03 months and 22 days and since investigation is complete and *challan* stands presented; the petitioners are entitled to get bail in view of the special provision under Section 437 Cr.P.C.

It is additionally argued that the petitioners are having infant children and, therefore, considering this fact, they are entitled to bail, being a special case.

Learned State counsel, assisted by learned counsel for the complainant, has, however, opposed the prayer of the petitioners. Learned State counsel has argued that both the petitioners, who are educated persons, have played an active role in committing offence in conspiracy with their husband/brother and father-in-law Kamal Singh. It is further submitted that petitioner Mamta is the Director of M/s Koshia Enterprises Pvt. Ltd., which was created only for siphoning off the funds from the fake bank account opened by co-accused/petitioner Rituraj Yadav in Axis Bank, Branch at NSG Manesar, being its Branch Manager, where the complainant deposited the amount of Rs. 64.49 crores by way of aforesaid two cheques. It is further submitted that thereafter the amount was transferred from the said fake account to M/s Koshia Enterprises Pvt. Ltd., the same was again siphoned off for other purposes by all the accused persons.

Learned State counsel further submitted that though the petitioners are having minor children, however, there are sufficient medical facilities available in the jail. It is further submitted that even petitioner Rituraj Yadav, who is the real sister of accused Parveen Yadav, is a Branch Manager in Axis Bank, NSG, Manesar Branch, where she opened the said fake account in the name of "Office of CG (Garrison) Station Head Quarters NSG", on the basis of fake documents as it has come in the investigation that accused have forged signatures of one Raj Kumar, who is an IPS Officer, for the purpose of opening the bank account, therefore, it cannot be said that petitioner Rituraj Yadav was only the mute spectator as she was actively

involved in opening the fake bank account in the name of a Government office.

Learned counsel for the complainant further submitted that during investigation, the police recorded the statement of Vipul and Diwakar from ICICI Bank and both of them have stated that it is Rituraj Yadav alone, who has prepared all the documents (which are in fact forged documents) in conspiracy with accused Parveen Yadav as even the signatures of Raj Kumar, IPS are forged and she is the only person, who has completed the formalities for opening the bank account knowingly that it is a fake account. It is further submitted that during investigation, it has come that both the petitioners were accepting very expensive gifts from their husband and have siphoned off the amount into the account of petitioner Mamta, which was used for buying properties, jewelries, expensive cars, bike etc.

Learned State counsel has further submitted that an account in the name of a Government office is always opened with great caution and proper verification and petitioner Rituraj Yadav, knowingly that the bank account will be misused for siphoning off the funds, opened the same in conspiracy with her brother Parveen Yadav and other accused.

Learned State counsel has further submitted that petitioner Mamta is the Director and authorized signatory of M/s Koshia Enterprises Pvt. Ltd. and the same was created only for siphoning off the amount from the fake Axis Bank account and in fact all the accused persons succeeded in transferring the amount from the said account to the account of M/s Koshia Enterprises Pvt. Ltd., which was opened with ICICI Bank and petitioner Mamta, being the authorized signatory, has further siphoned off the said amount.

Learned counsel for the complainant has additionally argued that in fact during investigation, it has come that the entire family of the petitioners and their husband/brother, in a pre-planned and pre-meditated manner since inception of conspiracy to commit fraud and cheating with the complainant and similarly situated some other persons, had opened the fake bank account in the name of "Office of CG (Garrison) Station Head Quarters NSG".

Learned counsel for the complainant further submitted that in ordinary course, a lady would always ask her husband, who is simply an employee, as to how he is procuring such huge amount for purchasing properties, jewelries, expensive cars etc. and the aforesaid conduct of the petitioners clearly reveals that they, in conspiracy with Parveen Yadav and other accused, were actively participating in commission of offence.

Learned counsel for the complainant has referred to some other FIRs, registered against all the accused persons by other victims, details of which are as under:

- (i) FIR No. 10/22, U/s 120-B, 406, 419, 420, 467, 468, 471 IPC;
- (ii) FIR No. 12/22, U/s 120-B, 406, 420, 467, 468, 471 IPC;
- (iii) FIR No. 15/22, U/s 120-B, 406, 419, 420, 467, 468, 471 IPC; and
- (iv) FIR No. 25/22, U/s 120-B, 406, 420, 467, 468, 471 IPC.

Learned counsel for the complainant further submitted that in all a total of Rs. 167 crores has been cheated by the accused persons including petitioners in a similar fashion and *modus operandi* adopted by accused is alluring the innocent persons on the pretext of providing them

tenders with NSG, Manesar, which is a very prestigious institution.

Learned counsel for the complainant has further argued that Section 437 Cr.P.C. does not give an absolute right to an accused person to get bail, who is habitual of committing offence.

After hearing learned counsel for the parties, I find no ground to grant the concession of regular bail to the petitioners for the following reasons:-

a) A perusal of the FIR as well as the investigation conducted clearly reveals that both the petitioners, in active conspiracy with co-accused Parveen Yadav, who is the husband of petitioner Mamta and brother of petitioner Rituraj Yadva, have firstly opened a fake account with Axis Bank, NSG, Manesar, where petitioner Rituraj was the Branch Manager. The said account was daringly opened in the name of a Government office on the basis of fake documents, which are so proved during investigation that signatures of a senior police officer were forged by the accused persons.

b) It has also come in the investigation that all the forged documents and formalities were completed by petitioner Rituraj Yadav alone in opening the account as she knew that the amount by victims will be deposited in this account, which will be further siphoned off to account of M/s Koshia Enterprises Pvt. Ltd., where petitioner Mamta was the Director and authorized signatory, therefore, since the time of inception of the conspiracy to commit the offence of forgery and cheating with the complainant by alluring him to part away Rs. 64.49 crores by way of bank transactions on the pretext of providing tenders of some housing projects, both the petitioners were actively involved in executing the conspiracy and committing the offence.

c) The arguments raised by learned counsel for the petitioners that the petitioners are entitled to get bail in view of the provisions of Section 437(6) Cr.P.C. cannot be accepted for the reasons that both the petitioners, apart from the present FIR, are involved in four more FIRs of similar nature, where other victims have also been cheated by all the accused persons in conspiracy with each other and a total fraud of around Rs. 167 crores has been committed. Therefore, this Court finds that it is not a special case.

d) Even otherwise, Section 437 Cr.P.C. does not give any absolute right to bail to a lady, who is allegedly an accused in a number of other FIRs for duping people from general public worth hundred crores of rupees. The fact that the entire amount was transferred from the said fake account opened in the name of a Government office by petitioner Rituraj Yadav to the account of M/s Kohisa Enterprises Pvt. Ltd., where petitioner Mamta is the Director and authorized signatory, further shows their criminal bent of mind as it has come in the investigation that by using the said amount, they have purchased properties, jewelries, expensive cars etc. and, therefore, no ground for grant of bail under Section 437 Cr.P.C. is made out.

e) The argument that the petitioners are having children with them is also no ground for granting them bail at this stage in the peculiar facts and circumstances of the case as the jail authorities are bound to provide all the medical assistance to petitioners and their children, if so required. This is also recorded by learned Illaqua Magistrate and Additional Sessions Judge in their respective orders.

Therefore, in view of the above facts and circumstance and considering the serious allegations of fraud and cheating against the petitioners, no ground is made out to grant them the concession of regular

bail.

Accordingly, both the petitions are dismissed.

Considering the fact that investigation of this case/FIR suggests that all the accused in conspiracy with each other have used the proceed of crime for purchasing property, vehicle, jewellery etc. the Director, Enforcement Directorate, New Delhi is directed to look into further investigation under the Prevention of Money Laundering Act, 2002.

A copy of this order be handed over to the Additional Solicitor General of India, who is present in Court for further action.

12.05.2022

Wassem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No

सत्यमेव जयते