IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-14632 of 2015.

Date of Decision: May 15, 2015.

Harminder Singh Sooch ....Petitioner.

VERSUS

State of Punjab and another ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

1. Whether the judgment should be reported in the digest? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No

Present: Mr. Sunil Chadha, Sr. Advocate with
Ms. Arti Kaur, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Punjab
assisted with Assistant Sub Inspector Raj Kumar.

Mr. Naveen Chopra, Advocate for the complainant.

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SNEH PRASHAR, J.

This petition under Section 439 of the Code of Criminal Procedure (in short, "Cr.P.C.") was filed by petitioner for grant of bail pending trial in case First Information Report No.5 dated 08.04.2015 under Sections 406, 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code (in short, "I.P.C.") registered at Police Station NRI Amritsar, District Amritsar City.

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2. This case was registered on a complaint given by Narinder Khanna, a NRI based in UK. His allegation was that he was interested in investing in the real estate in India and had transferred GBP 3,00,000.00 to Mr. Ashwani Kumar Uppal and his partner Manju Uppal who ere actively involved in sale of properties. However, he was defrauded of a huge amount by the said persons. In May, 2013 when he visited his bank i.e. Punjab National Bank, Basant Avenue, Lawrence Road, Amritsar and obtained his account statement, he found that the entire amount had been withdrawn and the account no.1339000500011982 had since been closed. He also learnt that certain unauthorized entries had been made in his account without his authority and permission.

During investigation, in a supplementary statement the complainant stated that Harminder Singh Sooch (petitioner) is beneficiary of Rs.6,91,000/- siphoned from his account.

3. Heard the submissions made by Mr. Sunil Chadha, learned senior counsel representing the petitioner, Mr. Ashish Sanghi, Deputy Advocate General, representing the State of Punjab and Mr. Naveen Chopra, learned counsel representing the complainant.

4. It was argued on behalf of the petitioner that he had been implicated for the sole reason that earlier a criminal case bearing First Information Report No.39 dated 22.03.2013 (Annexure-P2) under Sections 420 and 120-B I.P.C. was got registered by the petitioner against complainant Narinder Kumar Khanna and Ashwani Kumar Uppal etc. at Police Station City, Phagwara, District Kapurthala. Complainant Narinder

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Kumar Khanna was arrested by the police but on the same day the parties arrived at a settlement and a compromise (Annexure-P3) was reduced into writing and consequent to the same the complainant was enlarged on bail. Subsequently, the complainant resiled from the compromise.

Learned counsel further referred to the copy of the statement of account of the petitioner placed on file as Annexure-P7 and pointed out that on 16.02.2007 when an amount of Rs.2 lacs by way of a cheque was credited to the account of the petitioner there was an amount of Rs.5,31,11,035.00 already in his account. The subsequent entry of even date shows that the amount of Rs.5,33,00,000/- was transferred to account No.SFOS-11982 i.e. the account of the complainant from the account of the petitioner. In that manner, the amount of Rs.2 lacs which came from the account of the complainant were deposited back in his account. Learned counsel asserted that in the light of aforesaid facts at the most, it could be alleged that out of the disputed amount Rs.4,91,000/- remained with the petitioner. Accordingly, the petitioner is ready to deposit the said amount in the Court subject to decision of the case.

5. The prayer for bail of the petitioner was opposed by learned counsel representing the State of Punjab as well as learned counsel representing the complainant. They alleged that as per the allegations in the First Information Report, a huge amount had been withdrawn from the account of the complainant without any authority from him and the petitioner is one of the beneficiaries of that amount.

6. A detailed investigation report prepared by Deputy

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Superintendent of Police, NRI Sub Division S.A.S. Nagar, Mohali, has been filed by counsel for the complainant. In the said report, there is reference of the earlier criminal case registered against complainant Narinder Kumar Khanna at the instance of the petitioner. As per allegations the petitioner is said to be beneficiary of an amount of Rs.6,91,000/-. Importantly, prima facie, at the first instance, while lodging the First Information Report, no allegation was levelled against him by the complainant. It is subsequently during investigation that his name surfaced as one of the beneficiaries of the amount withdrawn from the account of the complainant without any authority from him.

7. The petitioner is in judicial custody since 15.04.2015. It is not pleaded by the police that anything remains to be recovered from him. Some of the accused are yet to be arrested. After the charge sheet is filed, the trial shall also take time and there appears no plausible ground to detain the petitioner in custody. Accordingly, the present petition is allowed. The petitioner is ordered to be enlarged on bail on his furnishing bail/surety bonds to the satisfaction of learned Chief Judicial Magistrate, Amritsar. He will deposit an amount of Rs.4,91,000/- in the said Court and the amount so deposited be kept in some beneficial scheme of fixed deposit in a nationalised bank so that no party suffers any pecuniary loss on the same. The amount will be disbursed only under the orders of the learned trial court on decision of the case.

(SNEH PRASHAR)
JUDGE

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