

CRM-M-48957-2021

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

(204)

CRM-M-48957-2021.
Date of Decision:-26.11.2021.

Abdul Basid

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kawalpreet Singh Virk, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.56 dated 28.03.2021 under Sections 379/420 of IPC, registered at Police Station Pilukhera, District Jind.

Learned counsel for the petitioner has submitted that in the present case, as per the allegation in the FIR, the entire amount which has allegedly been duped by the petitioner is Rs.9,999/- from the complainant through online fraud. It has been submitted that in fact in the present case, the complainant has given an affidavit dated 08.10.2021 (Annexure P-1) in which it has been stated that the money has been returned to him and he has no objection in case the present FIR is cancelled or the petitioner is granted

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bail. The factum with respect to the said affidavit has also been noticed in paragraph 3 of the order dated 12.11.2021 (Annexure P-2). It is submitted that the petitioner was arrested on 06.09.2021 and has been in custody since then and there are as many as 12 witnesses none of who have been examined and, thus, the trial is likely to take time, moreso, in view of the present pandemic.

Learned State counsel, on the other hand, has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner is involved in one more case.

Learned counsel for the petitioner, in rebuttal, has submitted that in the said case, the petitioner has already been granted bail and has relied upon the judgment passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others 2012 (2) SCC 382.*** Reference has been made to the relevant portion of paragraph 6, which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

Keeping in view the above-said facts and circumstances, moreso, the fact that in the present case, the entire amount of which the complainant was duped i.e., Rs.9,999/- has already been repaid by the petitioner to the complainant even as per the affidavit of the complainant dated 08.10.2021 (Annexure P-1), reference of which has been made in para 3 of the

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impugned order and also the fact that the petitioner has been in custody since 06.09.2021 and there are as many as 12 witnesses, none of whom have been examined and, thus, the trial is likely to take time more so, in view of the present pandemic and also in view of the judgment passed in Maulana's case (supra), the present petition for grant of regular bail deserves to be allowed.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

November 26, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No