

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

202

CRM-M-5182-2020

Date of decision: 06.08.2022

AMIT KUMAR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. J.K.Singla, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab
for the respondent-State.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 of Cr.P.C., wherein, the petitioner craves for indulgence of regular bail becoming granted to him, in respect of FIR No. 96 dated 21.06.2019 registered at Police Station City-I, Mansa, District Mansa, wherein, offences constituted under Sections 420, 406, 120-B of the IPC, are embodied.

2. The learned State counsel, on instructions given to him by ASI Madan Singh, submits that a joint loan account became sanctioned in favour of the victim-aggrieved, and, the present bail petitioner. Though, the contested signatures of the victim on the relevant documents, became transmitted to the handwriting expert concerned, but the latter has, after making the apposite comparisons, rather made an opinion, that the disputed signatures, as carried in the contested documents concerned, hence belong, or, are authored by the victim.

3. Be that as it may, there is yet a contest amongst the victim-complainant, and, the present bail petitioner, with respect to certain withdrawals taking place from the joint loan account opened, with Vijaya Bank, but yet since as above stated, the loan account from where withdrawals took place rather was joint, and, when each of the joint loanees, hold an equal right to withdraw the sums of money existing therein. Therefore, unless there was any evidence, on record that the entire sums of money, as became jointly sanctioned as a joint loan, in favour of the joint loanees concerned, became completely utilized or fully utilized by the present bail petitioner, thereupon, rather may be the victim could raise a valid grievance, that he has been cheated, or, that an offence of mis-appropriation has been committed. However, the learned State counsel submits that withdrawals as occurred from the joint loan account at the instance of the present bail petitioner, is not, of the completest complements of the loan deposits, as occur therein.

4. In sequel, since the judicial custody of the present bail petitioner, has commenced on 01.10.2019, as such, his judicial incarceration is not required to be any further prolonged, as thereupon, his personal liberty would become unnecessarily fettered, and, curtailed.

5. The further reason for admitting the present bail petitioner to regular bail, is comprised in the factum that, at this stage, no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being admitted to regular bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence, or influencing the prosecution witnesses.

6. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal and surety bonds in the sum of Rs.1,00,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted.

7. It is also clarified that, if at any stage, it is brought to the notice of this Court by the learned State counsel, that from the joint loan account, the present bail petitioner has withdrawn the entire sums of monies, and, to the detriment of the aggrieved complainant, thereupon, this Court may after hearing the present bail petitioner, proceed to rescind the order, as made today.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from FIR (supra).

06.08.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*