

CRM-M-14542-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14542-2022
Reserved on: 21.07.2022
Pronounced on: 27.07.2022

Dibyendu Banerjee ...Petitioner

Versus

State of UT Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.S. Lalli, Advocate for the petitioner.

Mr. Charanjit Singh Bakshi, Addl PP, UT Chandigarh.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
36	17.03.2020	North, Sector-3, Chandigarh	420 & 120B IPC

1. The petitioner, incarcerated upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Ld. counsel representing the State opposes bail and submits that the amount involved in fraud was Rs. Six crores and sixty lacs.

REASONING:

5. The petitioner is seeking bail by making the following arguments:
“The petitioner has been involved in the present FIR on the basis of disclosure statement of co-accused/Munmun Ghosh wife of Sourav Ghosh and no allegations have been made by the complainant against the petitioner. He further submits that in fact in one of the supplementary statements, the complainant had specifically stated that the amount of Rs.40 lacs transferred on the basis of RTGS are forged and said forgery as per the complainant has been done by Sourav Ghosh.”

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6. If the petitioner claims that the amount alleged against him was not the entire fraud amount of Rs. 6,60,00,000/- but Rs. 45,00,000/- out of which he has already refunded or spent a sum of Rs. 36 lacs on the complainants and their relatives, then the burden is on the petitioner to explicitly refer to the charge sheet pointing out the said aspect and also specifically mentioning the details of each rupee refunded or spent, by an account of statement in table format except the alleged amount of Rs. 9 lacs, which he had fraudulently transferred to the FIN Cap International Ltd of Saurav Ghosh, and for which he has already spent more than eight months in pre-trial custody, and the petitioner's stand for seeking bail on prolonged custody would be considered provided the petitioner is able to prima facie substantiate his stand.

7. Thus, the present petition is dismissed with liberty reserved to file fresh petition, mentioning all the details as pointed out above. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

27.07.2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.