

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

CRM-M-15066-2022

Date of Decision: 25th July, 2022

Kaushal Kishore Mishra

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sanchit Punia, Advocate for the petitioner.
Ms. Geeta Sharma, Deputy Advocate General, Haryana.

AVNEESH JHINGAN, J (Oral):

1. This petition under Section 439 Cr.P.C. is filed seeking regular bail in FIR No. 1270, dated 20th August, 2017, under Sections 420, 406, 467, 468, 471 and 120-B of Indian Penal Code, 1860, registered at Police Station City Jagadhari, District Yamuna Nagar.

2. Learned counsel for the petitioner claims parity with co-accused Kailash @ Soni who was granted regular bail by this court on 2nd March, 2022, this Court passed the following order:

“xxx xxx xxxx

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.1270 dated 20.08.2017 registered under Sections 420/406/467/468/471/120-B IPC at Police Station City Jagadhari, District Yamuna Nagar. The petitioner is in custody since his arrest on 25.11.2021.

The FIR was registered on the statement of Jinender Jain and the allegations as noticed by the Id. Addl. Sessions Judge, Yamuna Nagar at jagadhri in the order dated 23.12.2021 are as under:

“The brief matrix of the present case sans dispensable details is that a complaint was filed by complainant Jinender Jain to the police against the accused persons and it was alleged by him that he was cheated in the year 2015 and he got registered FIR No.397 dated

07.09.2015 under sections 420, 467, 468, 120 B IPC. On 03.08.2016, he received a telephonic call that he can get the money for which he was cheated, if he deposits certain fees. Thereafter, he deposited an amount of Rs.5,220/- in IDBI Bank and thereafter on various dates a large amount of money was deposited by him. He suffered material loss due to deposit of amount on various dates. It was accordingly requested that legal action be initiated against the culprits and the amount be recovered”

Learned counsel for the petitioner has argued that though the FIR is of 2017, but the petitioner was implicated after a long time and was arrested in November, 2021. He submits that the complainant was initially defrauded by some other accused persons in the year 2015 and in relation to that FIR No.397 dated 07.09.2015, under Sections 420/467/468/120-B IPC was registered against the accused, wherein the petitioner was not an accused. He submits that the other co-accused, who were similarly situated have been released on bail, therefore, the further custody of the petitioner may not be necessary. He prays for bail.

Learned State counsel assisted by SI Bhoop Singh has opposed the prayer on the ground that the petitioner was involved in online fraud and a sum of Rs.54,000/- was recovered from him. According to him, the petitioner is involved in other cases of similar nature, but does not dispute this fact that the other co-accused, who are similarly situated, have been released on bail.

After hearing the learned counsel for the parties, considering the above background, the custodial period of the petitioner and nature of the offences, which are triable by Magistrate, this Court is of the opinion that the further detention of the petitioner behind the bars may not be necessary for any useful purpose, particularly when his co-accused have been released on bail and further the trial is likely to consume considerable time to conclude, as the challan stands filed on 14.12.2021, but the charges are yet to be framed.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.”

3. Learned counsel for the State though opposes the prayer for grant of bail, but is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.

4. Without commenting on the merits of the case, on the basis of parity of petition vis-a-vis co-accused so far grant bail concerned and considering that the conclusion of investigation and trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

5. The petition is allowed.

6. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

25th July, 2022
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |