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CRM-M-18364 of 2022(O&M)

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

CRM-M-18364 of 2022 (O&M)

Date of Decision:- 19.05.2022

Aakash Chaturbhuj Chhabaria

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. R. S. Cheema, Sr. Advocate with
Mr. Arshdeep Singh Cheema,
Advocate for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

Mr. Varun Sharma, Advocate
for the complainant.

KARAMJIT SINGH, J.

CRM No.16674 of 2022

Allowed.

CRM-M-18364 of 2022

Prayer is for grant for regular bail to the petitioner in
case having FIR No.179 dated 22.10.2020 registered under Sections
408, 420, 467, 468, 471, 120-B of IPC, 1860 and 66D of the

Information Technology Act, 2008, Police Station Cyber Crime, Gurugram.

The counsel for the petitioner contends that the complainant company i.e. Hewlett Packard Enterprise, developed a system for appreciating its partners, distributors and re-sellers by providing incentives to them by way of short term incentive program and all the eligible partners, distributors and re-sellers were required to adhere to the prescribed terms and conditions. That co-accused Nitin Sharma employee of the complainant company was entrusted with the essential information, which was about the disbursement of the incentives to eligible partners, distributors and re-sellers. That however, during internal review of the budget, it was found that the rebate amount to the tune of Rs.19,81,42,530/- had been illegally approved and overdrawn on the basis of forged emails, created by aforesaid Nitin Sharma and had been paid to non-eligible partners/re-sellers namely M/s Atlantis and M/s JT Solutions. The counsel further contends that the present petitioner is owner of M/s Atlantis Enterprises, whereas co-accused Manish was associated with M/s JT Solutions. The counsel for the petitioner further contends that as per the prosecution version M/s JT Solutions wrongly got incentives of Rs.15.40 crore approximately through co-accused Manish whereas M/s Atlantis Enterprises received wrong incentives worth Rs.4.40 crore approximately. The counsel further contends that as per the prosecution, the amount which was transferred from co-accused

Manish to the companies of Nitin/his wife Karuna Sharma was Rs.2.45 crore approximately, whereas an amount transferred by the present petitioner to the account of Chartered Accountant of Nitin Sharma was Rs.36 lakh, which was later on transferred by the said Chartered Accountant to the companies, which were headed by Nitin Sharma.

The counsel for the petitioner further contends that co-accused Manish and Nitin Sharma have already been granted bail vide orders Annexures P-23 & P-24 by this Court. The counsel further contends that the petitioner surrendered before the Police on 18.1.2022 and is presently lodged in judicial custody and investigation against him has been completed and charges are framed and case is fixed for prosecution evidence. The counsel further contends that the case of the petitioner is on much better footing than that of co-accused Manish, who has already been granted regular bail. The counsel further contends that the main master mind behind the entire incident was Nitin Sharma, who has also been granted regular bail.

The present petition is contested by the State counsel as well as the counsel for complainant. The State counsel submits that the present petitioner and other accused persons committed cheating and fraud against Hewlett Packard Enterprise and thus, caused huge financial loss to the said company. Counsel further submits that the

trial is at its initial stage and as such, no ground is made out to grant bail to the petitioner.

Admittedly, the petitioner is in custody since 18.01.2022. On completion of investigation, the police has presented challan and charges have been framed against all the accused. But the evidence from the prosecution side is yet to commence. The co-accused Manish and Nitin Sharma have already been granted regular bail by the coordinate Bench of this Court and while doing so the coordinate Bench of this Court observed as follows:-

“ xxxxxx

9. *For the aforesaid reasons, this Court is of the opinion that further detention of the petitioner, in the given circumstances, is not called for at this stage, in view of the legal position expounded by the Apex Court in the case of Sanjay Chandra(supra) that notwithstanding the magnitude of the economic offences allegedly committed by an accused who is as yet not convicted, refusal of bail in the circumstances would be improper as a mark of disapproval of a formal conduct to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”*

In view of the above, this Court is of the view that no purpose is going to be served by keeping the petitioner behind the bars for any longer period and accordingly, the present petition is allowed and petitioner is ordered to be released on bail on his executing bail bond with two solvent surities each in sum of Rs.5

lakhs, to the satisfaction of Trial Court/Duty Magistrate concerned and also the following conditions:-

- a. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts or the case so as to dissuade him to disclose such facts to the Court or to any other authority.
- b. He shall remain present before the Court on the dates fixed for hearing of the case. If he wants to remain absent, then he shall take prior permission of the Court and in case of unavoidable circumstances for remaining absent, he shall immediately give intimation to the appropriate Court and also to the Superintendent concerned and request that he may be permitted to be present through the Counsel.
- c. He will not dispute his identity as the accused in the case.
- d. He shall surrender his Passport, if any (if not already surrendered), and in case, he is not a holder of the same, he shall swear to an Affidavit. If he has already surrendered before the Ld. Trial Court/Duty Magistrate concerned, that fact should also be supported by an Affidavit.

Any observations made herein above shall not be construed as an expression of opinion on merits of case.

19.05.2022

P. Chawla

**(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No