

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

CRM-M-33632-2022

Date of decision: 05.08.2022

Sanjeev Kumar Rawat

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. B.R. Rana, Advocate
for the petitioner.

Mr. Gaurav Bansal, A.A.G., Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.90 dated 03.03.2021 registered under Section 420 of the Indian Penal Code, 1860 and Sections 201, 120-B, 467, 468 and 471 of Indian Penal Code, 1860 have been added later on, at Police Station Ladwa, District Kurukshetra.

2. In brief, the facts of the case are that on 03.03.2021, complainant Manoj Kumar visited Police Station and moved a complaint to SHO with regard to withdrawal of amount from his account in Punjab National Bank to the effect that his wife namely Rajni got prepared a ATM Card from the bank on 01.03.2021. She had handed over the said ATM card to the complainant Manoj Kumar for generating password. Complainant

went to ATM of the bank and tried to generate the password but nothing was shown by the ATM machine. Thereafter, he approached the customer care and they told him that they will operate the ATM Card one word and on receipt of O.T.P. number, the same be supplied to them. The official of the customer care took O.T.P. number from the complainant and told that the said ATM Card will start functioning from the next day. On 02.03.2021 at about 4.05 P.M., a message was received on the mobile of complainant regarding transfer of an amount of Rs.1,97,500/- from the bank account to some other account; whereas he did not transfer any amount. The said message was also having one phone number i.e. 9792218271, in which the amount stood transferred. On the basis of these allegations, present FIR was registered against the accused.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 23.07.2021 and he has already undergone an actual custody of nearly 01 year in a magisterial trial and that evidence has not yet commenced in the said case. Even though as many as 18 witnesses have been examined by the prosecution. He further contends that even though as per the allegations, an amount of Rs.1,97,500/- had been withdrawn fraudulently by the use of ATM machine from the account of the complainant, however, a recovery of Rs.10,000/- had been effected at the disclosure of the petitioner. He contends that a similarly placed co-accused, namely, Azharudeen Ansari was granted the concession of regular bail vide order dated 16.05.2022 passed in CRM-M-9695-2022 titled as '*Azharudeen Ansari Vs. State of Haryana*', from whom an amount of Rs.20,000/- had been recovered.

4. *Per contra*, learned counsel appearing on behalf of the State of Haryana is contending that even though the benefit of concession of bail has already been extended to the said co-accused, however, the petitioner has criminal antecedents and that he is also involved in two other cases. It is however, not disputed that the case of the petitioner shall be at par with the said co-accused on merits otherwise and that the petitioner has already undergone the same period of custody as the said co-accused. It is also not disputed that no witness has been examined so far.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

6. Without examining the merits of the instant case and taking into consideration the circumstances noticed above, the stage of the trial, the period of actual custody undergone by the petitioner, the recovery effected as well as the fact that similarly placed co-accused has already been granted concession of bail in the magisterial trial, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court

7. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/heavy surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned and also subject to the following conditions:

i) he shall surrender his passport before the Court while furnishing his bail/surety bonds.

ii) he shall mark his presence personally before the SHO concerned on the 2nd and 4th Monday of every month.

iii) he shall always keep his mobile location on and share the same with the number so directed by the S.H.O.

iv) he shall not indulge in any kind of criminal activity.

v) and such other condition(s) as may be imposed by the concerned Chief Judicial Magistrate/Duty Magistrate.

8. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

9. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

05.08.2022

ps-I

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No