IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

101 **CRM-M-45662-2021.**
Date of Decision: 17.05.2022.

Saurav Ghosh ....Petitioner.

Versus

State of U.T., Chandigarh ....Respondent.

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CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Rohit Obroi, Advocate for petitioner.

Mr. Charanjit Singh Bakshi, Additional Public Prosecutor, for respondent-U.T., Chandigarh.

Mr. Preetinder Singh Ahluwalia, Advocate and Mr. H.S. Randhawa, Advocate for the complainant.

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Lalit Batra, J.

This petition under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of regular bail has been moved by petitioner-**Saurav Ghosh** in case FIR No.36 dated 17.03.2020 under Sections 120-B and 420 IPC, registered at Police Station North, District Chandigarh.

Custody certificate dated 17.05.2022 filed by learned counsel for respondent-UT is taken on record.

Additional reply dated 13.05.2022 by way of affidavit of Niyati Mittal, Deputy Superintendent of Police, Economic Offences Wing, Sector-17, Chandigarh, filed on behalf of respondent-UT, is taken on record and a copy thereof has been supplied to learned counsel for the petitioner.

Learned counsel for the petitioner *inter alia* contends that allegations levelled against the petitioner are altogether false and frivolous and there is no iota of truth therein. He further urges that allegedly complainant-Kuldeep Singh Grewal had made some investments through the petitioner in December, 2015 and in the year 2017 and the said investments were made in FINCAP and not in HDFC. He further submits that though petitioner had informed the investors that it was a mutual fund and it was private investment, however, the investors wanted higher returns forgetting the downside of those investments. He further urges that a bare perusal of allegations as set up in the FIR reveals that the accusations are civil in nature and in fact petitioner had never intended to cheat the complainant. He further submits that petitioner was languishing in custody since 19.12.2019 in another case FIR No.125 dated 15.10.2019 under Sections 120-B, 406, 409 and 420 IPC, registered at Police Station Mullanpur, District Mohali and in that case, he has already been extended concession of regular bail, vide order dated 26.05.2021 (Annexure P-2). He further submits that petitioner is languishing in custody in the instant case since 17.08.2020. He further submits that after presentation of final report as envisaged under Section 173 Cr.P.C. (*Challan),* though trial has already commenced, but there is no progress in the trial. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned counsel for respondent-UT assisted by learned counsel for the complainant while opposing instant petition has vehemently argued that petitioner while working as IMPERIA Relationship

Manager with HDFC Bank in connivance with other employees of the Bank enticed complainant-Kuldeep Singh Grewal as well as his relations/friends to park their funds with HDFC Bank and further to make investments with international funds giving attractive returns of 18-20% per annum, in the garb of which, money was routed to the accounts of different companies and usurped. He further submits that after having enticed the customers to park their funds with HDFC Bank, the petitioner for the purpose of moving the funds of the customers from the Bank to other accounts, from where these could be diverted for his own use and to achieve his illegal designs, enrolled two key employees of HDFC Bank namely Anthony Alfredo Rodrigues (Operations Manager) and Naresh Kumar (Teller Adviser) by offering them partnership in a Non Banking Finance Company. He further submits that Ishtiaque Ahmed, employee of HDFC Life and Mohd. Waseem, employee of HDFC Bank, being henchmen of the petitioner, were to arrange forging of customers' signatures and to complete the scam, the petitioner initially used to transfer funds from customers' accounts with the bank to companies like Shine Enterprises, SB Engineering, X-Facter, Shree Rama Associates Private Limited and M/s Wise Memoirs Private Limited, who in turn, transferred the funds to his accounts after deducting their brokerage fee. He further submits that petitioner had set up his own company namely ‘FINCAP International’ as a proprietary concern in the name of his henchman Himanshu Hazra, who would sign documents/cheques, as directed by the petitioner. He further submits that petitioner cleverly borrowed above said name (FINCAP International) from an International Fund and would tell the customers that FINCAP International is a subsidiary of the International Fund and could afford to give higher returns as it only dealt with the leading Banks of the country for covering their short term requirements. He further submits that in order to establish authenticity of FINCAP International, the petitioner had paid interest to some of the customers for the years 2015 and 2016. He further submits that petitioner as well as his co-accused namely Himanshu Hazra and Ishtiaque Ahmed suffered their respective disclosure statements disclosing therein the *modus operandi* of cheating various customers, in terms of which, amounts shown to be deposited with FINCAP International, Shine Enterprises, SB Engineering, X-Facter, Shree Rama Associates Private Limited and M/s Wise Memoirs Private Limited, were diverted to the accounts of petitioner, his wife Munmun Ghosh, Himanshu Hazra and Ishtiaque Ahmed and in the present case as many as eleven (11) complaints have been received against the accused persons and they have cheated them approximately to the tune of Rs.660.75 Lakhs (excluding Rs.204 Lakhs of HDFC Life). He further urges that office of Shine Enterprises was not found at the given address and its proprietor namely Vasu Dev Bhardwaj is yet to be joined in the investigation. He further urges that as many as five accused have been arrested till date. He further submits that after receipt of CFSL report, offence under Sections 467, 468 and 471 IPC have been added in the case. He further submits that final report as envisaged under Section 173 Cr.P.C. (*Challan*) was presented in the Trial Court against the petitioner on 12.10.2020 and trial has commenced and three witnesses have already been examined. He further submits that after commencement of trial, an application under Section 173(8) Cr.P.C. was moved by the complainant seeking order for further investigation in the case as the final report (*Challan*) prepared by the Investigating Agency was filed on the basis of half baked investigation and, thus, vide order dated 18.02.2022 passed by the Trial Court, further investigation as envisaged under Section 173(8) Cr.P.C. has been ordered to be made. He further submits that petitioner is habitual offender as besides instant case, he is also involved in another case bearing FIR No.125 dated 15.10.2019 under Sections 120-B, 406, 409 and 420 IPC, registered at Police Station Mullanpur, District Mohali and apart from that, he (petitioner) has already been convicted for commission of offence punishable under Section 138 of Negotiable Instruments Act, 1881 and was sentenced to undergo rigorous imprisonment for a period of two years with fine of Rs.10,000/- with further direction to the petitioner/convict to pay compensation under Section 357(3) Cr.P.C. to complainant of amount equivalent to the cheque amount i.e. Rs.13,00,000/- within a period of one month, vide judgment of conviction and order on quantum of sentence both dated 11.09.2019 passed by Judicial Magistrate Ist Class, Chandigarh, in Complaint Case No.21337 of 2018. He further submits that petition (CRM-M-48580-2021) seeking regular bail moved by co-accused Ishtiaque Ahmed has already been dismissed by Co-ordinate Bench of this Court, vide order dated 27.04.2022. He further urges that earnest and sincere efforts shall be made at the instance of Prosecuting Agency to conclude the examination of prosecution witnesses at the earliest. He further submits that material prosecution witnesses including complainant are yet to be examined and in case petitioner is released on bail, he may influence the witnesses. He further submits that in view of nature of offence committed by the petitioner, he does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as record of the case.

Without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that allegedly petitioner in conspiracy with co-accused and in furtherance of their common intention committed fraud upon the complainants (11 in number) and duped them of their hard-earned money approximately Rs.660.75 Lakhs (excluding Rs.204 Lakhs of HDFC Life). Moreover, further investigation in the instant case has already been ordered and material prosecution witnesses are yet to be examined. In view of seriousness of offence and attributed role of petitioner in the commission of alleged offence, he does not deserve the concession of bail.

As a sequel to above, instant petition for grant of regular bail moved by petitioner-**Saurav Ghosh**, being devoid of merits, is dismissed.

(LALIT BATRA)
JUDGE

17.05.2022
jitender

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No