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

CRM-M-43681 of 2022
Reserved on: 14.12.2022
Date of Pronouncement: - 21.12.2022

Kuldeep Patel

......Petitioner

Versus

State of Haryana

......Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. R.S. Rai, Sr. Advocate, with
Mr. Karan Pathak, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J.

Learned counsel for the petitioner submits that Sections 201, 467, 468 and 471 IPC have been added later on in the present FIR, therefore, the same could not be mentioned in the petition. Learned State counsel does not dispute this fact.

On the oral request of learned counsel for the petitioner, Sections 201, 467, 468 and 471 IPC are added in the petition. Registry is directed to make necessary correction in the petition.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.0267 dated 17.05.2022 under Sections 120-B, 406, 420, 506 IPC (Sections 201, 467, 468 and 471 IPC added lateron) and Sections 3, 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, registered at Police Station Hisar Civil Lines, District Hisar.

In terms of order dated 21.10.2022, learned State counsel has filed status report which is taken on record.

FIR in the present case was registered on the complaint made by the complainant, who stated that accused persons by calling the complainant on telegram fraudulently induced him by saying that they have an app. namely WinMoney which is Android link chain app. and same was approved by Government of India. It deals in chit fund scheme and that numerous persons have invested their money in this scheme. The complainant was fell in the trap and he made four IDs as mentioned in the FIR. He deposited a sum of Rs.12 to Rs.15 lacs in the said IDs from different bank accounts. For sometime the complainant was paid commission but later on when the complainant checked the app. he came to know that the payment was stopped and his IDs and accounts were blocked. Later on the complainant received a telephone call on telegram that if the complainant deposits Rs.80,000/- in their account, his payment in WinMoney app. will be paid to him. However, the complainant told him that the complainant has already deposited his entire amount in WinMoney app. and he was not left with anything more. Said person gave his mobile No. 9773524619 to the complainant and thereafter he gave ID Guruji.ji12@ybl to the complainant and asked the complainant to deposit the amount in the same. Later on when the complainant talked to one Aena on telegram, he was told that they defrauded people through WinMoney app. and the complainant could do whichever he wanted.

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Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in the case whereas he was not involved in the alleged commission of offence. Petitioner was neither named in the FIR nor any role has been attributed to him. He has been implicated during the course of investigation. Challan in the present case has been filed wherein the only allegation against the petitioner is that co-accused, namely, Uday Mehta in his disclosure statement stated that a sum of Rs.24,95,000/- was transferred to the account of the petitioner to be given to Parshant Patel and in lieu thereof he got commission worth Rs.3 lacs. He further submits that bail application filed by the petitioner was wrongly dismissed by the Court of learned Additional Sessions Judge, Hisar, vide order dated 05.09.2022. He further submits that allegations relate to economic offences and the said offences are triable by the Magistrate. The petitioner is in custody since 29.06.2022. The allegations are matter of evidence, which shall be decided by the trial Court during the course of trial. He further submits that investigation in the present case is complete and challan has been presented and charges have been framed and now the case is fixed for prosecution evidence. He further submits that all the documents are in the custody of the investigating agency and no recovery is to be effected from the petitioner. He also submits that account shown in the FIR is neither in the name of the petitioner nor operated by him.He further submits that no recovery is to be effected from the petitioner.

In support of his arguments, learned counsel for the petitioner has relied upon judgments of Hon'ble Supreme Court in cases of ***Sanjay Chandra Vs. CBI Criminal Appeal No.2178 of 2011 (Arising out of SLP (Crl) No.5650 of 2011) decided on 23.11.2011, Manoranjana Sinh @ Gupta Vs. Central Bureau of Investigation 2017(1) R.C.R. (Criminal) 1025, Sandeep Jain Vs. National Capital Territory of Delhi rep.by Secretary, Home Deptt. 2000(1) R.C.R. (Criminal) 517, Sheikh Ayub Vs. State of M. P. 2006(2) R.C.R. (Criminal) 63, Shyam Singh Vs. State through C.B.I. 2006(9) SCC 169, judgment of this Court in case Lalit Khurana Vs. State of Punjab CRM-M No.18477 of 2018 decided on 20.07.2018*** and ***judgment of Bombay High Court in case Vyomesh Shah and others Vs. State of Maharashtra 2018(1) R.C.R. (Criminal) 791***.

Per contra, learned State counsel opposed the prayer for grant of regular bail to the petitioner and submits that huge amount is involved in the present case. Although, main accused are Uday Mehta and Sachin Gudaliya, petitioner is a part of the conspiracy. In case the petitioner is released on regular bail, he may abscond and misuse the concession of bail.

I have heard learned counsel for the parties and perused the record.

In the present case, the allegations in the FIR are not disputed. Admittedly, the investigation has been completed as not only the challan has been presented but even the charges have been framed. It is also not disputed that all the documents are in custody of the complainant or with the investigating agency, but are now with the trial Court after presentation of final report. Even the mobiles and E-Wallets have been taken in the custody during investigation.

No doubt while granting bail the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, severity of the punishment which conviction will entail, the character of the accused and facts and circumstances of the case. It is also one of the factors while considering the bail that there is a reasonable possibility of securing the presence of the accused during trial and reasonable apprehension of the witnesses being tampered with. The larger interest of the public/State and some other similar considerations are also there. It has been held in various judgments of this Court as well as Hon'ble the Apex Court that in economic offence, the view point is to be taken differently with different approach in case of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be taken seriously and considered as grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country as has been held by Hon'ble Apex Court in judgment of case ***Nimmagadda Prasad Vs. Central Bureau of Investigation AIR 2013 SCC 2821***. It is a settled preposition of law that while granting bail though the Court may impose reasonable conditions as it thinks fit but the object of putting conditions is to avoid the possibility of the person hampering investigation. The discretion of the Court while putting condition is to be in exercise of judicial discretion. In an offence under Sections 420, 201, 467, 468, 471 IPC, the Court is certainly not going to recover the alleged amount as a condition to grant bail. In other words, reasonable conditions can be incorporated in exercise of judicial discretion and purpose of putting such conditions is to secure the presence of accused at the time of trial/hearing of the case before the trial Court.

Accordingly, without commenting anything on the merits of the case as allegations are matter of evidence to be tested by the trial Court during the course of trial and by considering that the petitioner is in custody since 29.06.2022 and also the fact that report under Section 173 Cr.P.C. has been submitted before the trial Court, the offences are triable by Magistrate and further detention of the petitioner behind the bars would not serve any useful purpose, the present petition is allowed and the petitioner is directed to be released on regular bail to the satisfaction of the trial Court subject to following conditions :-

(1) The petitioner shall furnish a personal bond in the sum of Rs.7lacs (Rupees Seven Lacs) with two sureties in the like amount to the satisfaction of the trial Court.

(2) The petitioner shall surrender his passport before the trial Court.

(3) He shall not leave country without permission of Court.

(4) He shall not tamper with the evidence or do any act which will create a reasonable ground to assume that the petitioner is trying to create hurdle in the investigation or trial of the case which will entail cancellation of bail.

(5) Any other condition which may be imposed by the trial Court.

(NAMIT KUMAR)
JUDGE

21.12.2022
R.S.

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