

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

CRM-M-51317-2022
Date of Decision: 21.12.2022

ABHISHEK CHAUHAN

...Petitioner

Versus

U.T., CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Abhinav Gupta, Addl. P.P. U.T., Chandigarh.

HARSH BUNGER, J. (ORAL)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No.50 dated 03.10.2022 registered under Sections 419, 420 and 120-B of the Indian Penal code, 1860 at Police Station Cyber Crime, Sector 17, Chandigarh (Annexure P-1).

A perusal of paper book would show that the FIR in question was registered on the basis of statement of one Inderpal Singh, who had alleged that he had received a *WhatsApp* call from 1(765)2640177 and the caller had posed himself as his grandson from Australia, who told that he had come with his friends to party in a club, where his friends had a fight with the waiter and they had hit a bottle of liquor on his head, due to which, the waiter got injured and admitted to the hospital and they had been caught by the police. The said caller told the complainant to talk to his lawyer and the said lawyer disclosed himself to be one Mr. Khanna from Delhi. He told

the complainant that the police therein had fined his grandson six thousand dollars and accordingly, he asked the complainant to deposit the same in the nearest bank, whereupon the complainant is alleged to have stated that there is a branch of SBI Bank near him upon which the complainant was asked to deposit Rs.60,000/- in the account of Mr. Khanna's wife-Lalita Devi bearing Account No.40945180751 and the same was deposited by the complainant through cheque. It was further alleged that subsequently, he received another *WhatsApp* video call from number 7973566140 and the complainant was again asked to deposit Rs.50,000/-, which the complainant deposited. It is further alleged that when the complainant called his younger son Pathpreet Singh, who is also residing in Australia, and disclosed the aforesaid fact to him and enquired about his grandson Chirag then he was told by Pathpreet Singh that he had talked to Chirag and he is at home and everything is fine. Accordingly, the FIR in question was registered against unknown persons.

During investigation, it was revealed that the account number, wherein the money was deposited, was found in the name of one Mrs. Lalita Devi and the amount was further transferred to another bank account No.77770119572572, which was found in the name of Sharikul Haque Munna. It appears that the said amount was further transferred to another SBI Account No.39969818891, which was stated to be in the name of one Ravi Kant. When said Ravi Kant was apprehended, he disclosed the name of present petitioner-Abhishek Chauhan. Accordingly, the petitioner was arrested on 04.10.2022 and his mobile phone was taken into possession by the police, in which, the OTP for transferring the amount in the bank account of co-accused Ravi Kant was found to have been

received and thereafter, the mobile was sent for examination to the Central Forensic Science Laboratory.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case on the basis of mere disclosure statement of co-accused Ravi Kant. He submits that the petitioner has been in custody for the last more than two months and the challan has already been presented. Learned counsel for the petitioner has handed over a copy of order dated 24.11.2022 passed by the learned Additional Sessions Judge, Chandigarh today in the Court, whereby, co-accused Ravi Kant has been granted the concession of regular bail. The same is taken on record, subject to all just exceptions.

A perusal of said order dated 24.11.2022 passed by learned Additional Sessions Judge, Chandigarh, granting bail to co-accused Ravi Kant would show that the following observations were made therein :

“7. During arguments, the Ld. Counsel for applicant laid stress on the point that compromise has already been effected between the parties and that the applicant has paid Rs.1,10,000/- to the complainant. On being enquired, the IO has endorsed this fact and told that complainant has received full and final payment from accused and that he did not want to pursue with the present FIR. So far the averments of the prosecution are concerned, those are matters to be appreciated only after taking evidence during trial. Applicant is in custody since 04.10.2022. No recovery is to be effected from him. There is nothing on record to suggest any previous criminal antecedent of the applicant. Considering the aforesaid circumstances, no useful purpose would be served by detaining the applicant in custody. Rather, it will amount to

burdening the State exchequer. So, the court deems it appropriate to grant the benefit of bail to the applicant.”

While referring to above quoted para No.7, learned counsel for the petitioner has submitted that the matter has been primarily settled between the complainant and Ravi Kant, whereupon, an amount of Rs.1,10,000/- stands paid to the complainant and when the said fact was enquired into by the learned Additional Sessions Judge, Chandigarh then the IO had endorsed the fact that the complainant has received the full and final payment from accused-Ravi Kant and that he did not want to pursue with the present FIR. It is submitted that since the matter has already been settled into between co-accused Ravi Kant and the complainant; nothing is to be recovered from the petitioner and there is no other case against him, accordingly it is prayed that the petitioner may be admitted to regular bail.

Upon issuance of notice of motion in this case, learned Additional P.P. U.T. Chandigarh, appeared and opposed the bail application of the petitioner by submitting that the offence is serious. He produced a custody certificate dated 14.12.2022 along with Status Report dated 09.12.2022. While referring to the Status Report, learned counsel has submitted that the mobile phone of the petitioner from where the OTP for transferring the amount in the bank account of Ravi Kant was found, has been sent to Central Forensic Science Laboratory and the report of Central Forensic Science Laboratory is yet to be received by the Investigating Agency. However, he has not denied the fact that co-accused Ravi Kant has already been granted regular bail by the learned Additional Sessions Judge, Chandigarh. It is also not denied that the complainant has already received

an amount of Rs.1,10,000/- from co-accused Ravi Kant and that the challan has already been presented before the trial Court on 01.12.2022.

I have heard learned counsel for the parties and have gone through the paper book with their able assistance.

As per custody certificate, the petitioner has been in custody for the last more than two months; the complainant has already received an amount of Rs.1,10,000/- from co-accused Ravi Kant; the mobile phone of the petitioner has already been taken into possession by the police and nothing is to be recovered from him and moreover there is no other case against him except the present one.

Considering the aforementioned facts and circumstances, this Court is inclined to grant regular bail to the petitioner, especially in view of the fact that he was implicated only on the basis of disclosure statement of co-accused Ravi Kant, who has already been granted regular bail by learned Additional Sessions Judge, Chandigarh vide order dated 24.11.2022. The veracity of the disclosure statement will be tested during trial.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned. However, about his release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer; keep his mobile's location on and also appear in the concerned Police Station

once in a month till the conclusion of the trial. He would also furnish an undertaking to the effect that he will not indulge in any illegal activity.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

December 21, 2022
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No