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

**CRM-M-57644-2022
Date of Decision: 20.12.2022**

Godwin Afambu

..... Petitioner

Versus

Union Territory, Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Maneet Kumar Ayra, Advocate,
for the petitioner.

Mr. D.S. Brar, Addl. P.P., U.T., Chandigarh.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.38 dated 09.07.2021, under Sections 419, 420 & 120-B IPC and Section 66D of the Information Technology Act, 2000 was added later on, registered at Police Station Sector-19, Chandigarh.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 13.07.2021, which is more than 1 year and 5 months. He further submitted that the investigation of the case has already been completed and challan has also been presented before the competent Court, and thereafter, one witness has also been examined. He also

submitted that the present is a case which is triable by the Magistrate and the petitioner is having clean antecedents and is not involved in any other case. He also submitted that the petitioner is a foreign national and his name has been nominated only on the ground that his phone number was mentioned in the account which was attached with the account and the ATM Card in which the money was transferred. He further submitted that no money has been transferred in the account of the petitioner and the same is reflected from the bare contents of the FIR itself. He also submitted that the passport of the petitioner has already been submitted to the police and in view of the aforesaid facts and circumstances, the petitioner may be considered for grant of regular bail.

On the other hand, Mr. D.S. Brar, learned Addl. P.P. for U.T. Chandigarh has submitted that it is correct that the petitioner is in custody since 13.07.2021, which is more than 1 year and 5 months and after the completion of investigation, the challan has been presented before the competent Court and thereafter, one witness has also been examined and the present is a case which is triable by the Magistrate. He also submitted after taking instructions from S.I. Krishan Dev, who is present in Court that it is also correct that no money has been deposited in the account of the petitioner and he was involved in the present case because his sim number was connected with those accounts and the ATM Cards of those accounts where the money was deposited. He further submitted that it is also correct that the petitioner is not involved in any other case and the passport of the petitioner is already in the custody of the police.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for more than 1 year and 5 months and the investigation of the case has already been completed and thereafter, one witness has also been examined. The present is a case which is triable by the Magistrate and as per the learned counsel for the parties, the petitioner is not a habitual offender and is not involved in any other case. The allegations in the FIR pertain to financial dispute between the complainant and the accused pertaining to sale and purchase of Mucuna Nut and allegedly the complainant had transferred about Rs.1 crore and 10 lacs in several accounts, however, both the learned counsel for the parties have submitted that those accounts do not belong to the petitioner and the only allegation was that sim card of the petitioner was attached with the account number. Be that as it may, the petitioner is stated to be not a habitual offender and the present is a case which is triable by the Magistrate and he has already faced incarceration for more than 1 year and 5 months. The trial of the case may take long time, since according to the learned State counsel, out of total cited 35 witnesses only one has been examined. The passport of the petitioner is already in the police custody.

In view of the above, this Court without expressing anything on the merits of the case and considering the prayer of the petitioner for grant of regular bail, deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the

purpose of decision of present petition.

20.12.2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

1. Whether speaking/reasoned:

Yes/No
2. Whether reportable:

Yes/No