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

CRM-M-3322-2023 (O&M)
Date of decision : 13.02.2023

Ramesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ravi Kant Sharma, Advocate for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in FIR No.218 dated 24.08.2022 registered under Sections 406, 420, 204, 467, 468, 471, 120-B of Indian Penal Code, 1860 read with Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 at Police Station Sadar Ambala (District Ambala).

Learned counsel for the petitioner has submitted that the petitioner is in custody since 12.09.2022 and investigation is complete and challan has been presented and there are 69 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the earlier bail application of

the petitioner was dismissed as withdrawn on 08.12.2022 with liberty to file a fresh petition after annexing the statements of the witnesses who had given statements against the present petitioner including Harish Kumar. It is contended that the present petition has been filed after annexing the said statements and all the relevant documents and thus in effect, the present petition is the first regular bail application of the petitioner. It is further contended that the petitioner had not been named in the FIR whereas the complainant-Mandeep Singh had specifically named several persons including Tarun Taneja, Vikas Kalra, Kapil Jaiswal, Pawan Kumar and had also referred to allegedly making a payment of Rs.15,88,000/- to Tarun Taneja. It is argued that the name of the petitioner has surfaced in the statements of Harish Kumar, Deepak Batra and Sanjay Kumar but even as per the said statements of the said three witnesses, it has not been specifically averred that any amount was specifically paid to the present petitioner. It is further argued that as far as Harish Kumar is concerned, he had stated in his statement that he had invested Rs.4,16,000/-, out of which, he had earned Rs.70,000/- and before he could receive back the balance amount of Rs.3,46,000/-, the website was shut down as per Google. It is also submitted that said Harish Kumar has although, made allegations against the present petitioner to the effect that the present petitioner had informed him to invest money in the Crypto World Trading Company. It is also contended that with respect to the statement of Deepak Batra recorded under Section 161 of Cr.P.C., it is stated that no specific entrustment of money has been alleged, although, said Deepak Batra made a general statement to the effect that cash amount was given to Vikas Kalra, Kapil Jaiswal, Pawan Kumar,

Tarun Taneja, Gurjant and the present petitioner. It is also argued that as far as Sanjay Kumar is concerned, he has stated that total sum of Rs.9,80,000/- was given to Kapil Jaiswal and Tarun Taneja at Kurukshetra, out of which, an amount of Rs.1,50,000/- had been returned. It is also submitted that even said Sanjay Kumar has not stated that any specific amount was given to the petitioner, although, the petitioner was also stated to be one of the persons who was involved in the alleged incident. Learned counsel for the petitioner has further submitted that at any rate, the entire case is based on documentary evidence and thus, no useful purpose would be served by keeping the petitioner in further incarceration.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the recovery of Rs.3,00,000/- has been effected from the petitioner and even one car bearing No.HR-78D-6584 Mark Datsun redi-GO which, as per the case of the prosecution, was purchased from the money which had been recovered from the petitioner. It is further submitted that involvement of the petitioner is also apparent from the statement made by the witnesses namely Harish Kumar, Deepak Batra and Sanjay Kumar, who have also named present petitioner as one of the persons involved in the racket. It is further contended that the petitioner is involved in a case of a similar nature and thus, does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal to the aforesaid argument raised by learned State Counsel, has submitted that as far as the car is concerned, the same was purchased on 24.02.2022, which is prior to occurrence of the alleged incident, on the basis of which, the FIR has been

registered. He has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paper book.

Keeping in view the abovesaid facts and circumstances more so, the facts that the petitioner is in custody since 12.09.2022 and investigation is complete and challan has been presented and out of 69 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time and also the fact that recovery has already been effected from the present petitioner and the petitioner was not named in the FIR, although, the complainant had specifically named Tarun Taneja, Vikas Kalra, Kapil Jaiswal, Pawan Kumar in the FIR and also in view of the law laid down in ***Maulana Mohd. Amir Rashadi's*** case (Supra), the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

13.02.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**