

222-1 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-16367-2023

Date of Decision: 08.05.2023

Vikash Mahto

..... Petitioner

Versus

U.T., Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sohrab Dhanda, Advocate
for the petitioner.

Mr. Viranjeet Singh Mahal, Addl. P.P., U.T., Chandigarh.

HARSH BUNGER J. (ORAL)

1. Petitioner (Vikash Mahto) has filed the present petition under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.28 dated 30.08.2022, under Sections 120-B, 384, 419 and 420 of the Indian Penal Code, registered at Police Station Cyber Crime, Chandigarh.

2. Upon issuance of notice Status Report by way of Affidavit dated 26.04.2023 of Sh. A.Venkatesh, Deputy Superintendent of Police/Cyber Crime, Crime & I.T., Chandigarh has been filed on behalf of learned counsel for U.T., Chandigarh, which is already on record.

3. Custody certificate dated 08.05.2023 of the petitioner is filed by learned counsel for U.T., Chandigarh in Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the aforesaid FIR was registered on the statement of complainant, namely Vinit Kapoor s/o Nand Kishor, who stated that he is

working with Dainik Sawera News and he was in need of money, therefore one day, while surfing on Facebook, when he found a link of a Loan App, he clicked on the same and installed Gama Limited App from Play Store, having mail ID Kanojiyarish96h517@gmail.com. Thereafter on 15.08.2022, the complainant applied for a loan of Rs.5,000/- and they credited an amount of Rs.2,755/- to the account of complainant, bearing No.3918000100173238 PNB (after deducting processing fee), and they asked to return the said amount of Rs.5,000/- after 7 days. Thereafter, on 21.08.2022, the complainant did a UPI transaction of the said amount of Rs.5,000/- from his Paytm account No.8699173710 to the UPI ID Sarda90887@barodampay. However on the very next day, the complainant started receiving phone calls and WhatsApp calls from Loan App stating that his payment of Rs.5,000/- is due, whereupon the complainant sent some screen-shots on WhatsApp regarding payment of the said amount. Thereafter, they sent personal information of complainant to him on his WhatsApp and asked him that if money is not deposited to them then the complainant's personal information will be shared with his relatives. It is stated that thereafter they used abusive language against complainant and sent him the morphed photos of complainant and his wife to make them victims. Accordingly, the complainant lodged the present FIR No.28 dated 18.09.2022.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR No.28 dated 30.08.2022. It is submitted that the petitioner belongs to an economically weak family and in order to support his family, he had joined the company in question on 12.08.2022, wherein his friend Neeraj (co-accused) was already working.

Learned counsel states that the petitioner was arrested only on the basis of disclosure statement of co-accused, namely Neeraj Singh. It is further stated that no identification parade was conducted by the police officials in the present case.

6. Learned counsel for the petitioner submits that the application for grant of regular bail moved by the petitioner before the Court of Additional Sessions Judge, Chandigarh, was wrongly declined vide order dated 13.12.2022 (Annexure P-2). It is contended that co-accused, namely Uttam Mallick and Om Prakash Jha, have already been granted the concession of regular bail by this Court vide separate orders dated 15.03.2023 (Annexures P-3 and P-4) passed in CRM-M-58111-2022 titled as ***“Uttam Mallick Vs. U.T., Chandigarh”*** and CRM-M-999-2023 titled as ***“Om Prakash Jha Vs. U.T., Chandigarh”***. It is submitted that the investigation of case is complete and challan has already been submitted and trial is likely to take time. It is stated that mobile phone of the petitioner is also in custody of the police officials and nothing is to be recovered from the petitioner. Learned counsel submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

7. Learned counsel for the respondent-U.T., Chandigarh opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offences. It is stated that the petitioner was taken into custody on 08.09.2022 and he was handed over to the Chennai Police along with Chandigarh Court warrant on 16.10.2022 and at present, the petitioner is in custody of Chennai Police. It is next submitted that as per the petitioner himself, there are six other cases registered against him, which are still

pending. However, it is fairly conceded that the co-accused, namely Uttam Mallick and Om Prakash Jha, have already been granted the concession of regular bail by this Court vide separate orders dated 15.03.2023.

8. Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012(2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced herein below :-

“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.”

9. I have heard learned counsel for the parties and perused the paper book as well as the status report and custody certificate of petitioner.

10. Petitioner (Vikash Mahto), who is a young boy of 20 years of age, has already undergone more than one month of custody in the present case. It is not disputed that investigation in this case is complete and challan stands presented on 31.10.2022 and there are twelve witnesses cited in the challan; and the report of Central Forensic Science Laboratory is still awaited. Hence, trial in the case is likely to take long time. Moreover, co-accused-Uttam Mallick Om Prakash Jha, have already been granted regular bail.

11. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail (if not required in any other case) subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial 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. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity.

12. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law in case the petitioner remains absent from trial without any sufficient cause.

13. Nothing expressed hereinabove 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.

14. The petition is accordingly disposed of.

08.05.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No