

262 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21578-2023 (O&M)
Date of Decision: 08.05.2023

Niraj Patel

..... Petitioner

Versus

State of U.T., Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kuldip Sanwal, Advocate
for the petitioner.

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

HARSH BUNGER J. (ORAL)

1. Petitioner (Niraj Patel) has filed the present petition under Section 439 of the Code of Criminal Procedure for grant of regular bail 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, learned counsel for U.T., Chandigarh has filed Status Report by way of Affidavit dated 05.05.2023 of Sh. A.Venkatesh, Deputy Superintendent of Police/Cyber Crime, Crime & I.T., Chandigarh and custody certificate dated 08.05.2023 of the petitioner, in Court today, which are taken on record, subject to all just exceptions.

3. 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. It is alleged that 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 30.08.2022.

4. Learned counsel for the petitioner contends that the petitioner is a student of 20 years of age and has been falsely implicated in the present FIR No.28 dated 30.08.2022. It is submitted that the petitioner was doing a part-time job in the Company in question and he had no knowledge regarding the alleged illegal activities going on in the said company. It is stated that the FIR was registered against unknown person.

5. Learned counsel for the petitioner submits that application for grant of regular bail moved by the petitioner before the Court of Additional Sessions Judge, Chandigarh, was wrongly declined vide order dated 19.04.2023. It is contended that co-accused, namely Manjeet Kaur Tiwari, has already been granted the concession of regular bail by this Court vide order dated 15.03.2023 (Annexure P-2) passed in CRM-M-57769-2022 titled as ***“Manjeet Kumar Tiwari Vs. State of U.T., Chandigarh”***. Learned counsel states that the petitioner has undergone custody for a period of seven months and twenty seven days in the present case (as on 08.05.2023). It is submitted that the investigation of case is complete and challan has already been submitted. Learned counsel submits that no other case is pending against the petitioner and he 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.

6. 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. However, it is fairly conceded by learned counsel for the respondent-U.T., Chandigarh that as per custody certificate dated 08.05.2023, the total custody of petitioner is seven months and twenty seven days, and no other case is pending against the petitioner. It is also not disputed that co-accused, namely Manjeet Kumar Tiwari, has already been granted the concession of regular bail by this Court vide order dated 15.03.2023.

7. I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of petitioner handed over by learned counsel for the respondent-U.T., Chandigarh, in Court today.

8. Petitioner (Niraj Patel) is stated to be a student of 20 years of age. He has already undergone seven months and twenty seven days of custody (as on 08.05.2023). It is also 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. As per custody certificate, there is no other case against the petitioner. Trial in the case is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars for an indefinite period. Moreover, co-accused (Manjeet Kumar Tiwari) has already been granted bail.

9. Keeping in view the aforementioned circumstances, the instant 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 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.

10. 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.

11. 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.

12. The petition is accordingly disposed of.

08.05.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No