

CRM-28868-2023 in  
CRM-M-28995-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-28868-2023 in  
CRM-M-28995-2023 (O & M)  
Date of decision: 19.07.2023

Monish Mittal

..... Petitioner

V/s

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Sumeet Goel, Sr. Advocate,  
with Mr. Harshit Jain, Advocate,  
and Mr. Shivam Kaushik, Advocate,  
for the petitioner.

Mr. Sanjiv Kumar Panwar, Addl.A.G., Haryana.

Mr. Gurmandeep Singh Sullar, Advocate,  
with Ms. Devaki Anand Sullar, Advocate,  
for the complainant.

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**JASJIT SINGH BEDI, J. (Oral)**

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This is an application seeking advancement of next date of hearing  
i.e. 25.08.2023 fixed in the main case to some early date.

For the reasons mentioned in the application, same is allowed  
and the next date of hearing fixed in the main case is advanced to today itself  
and the matter is taken up for hearing.

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The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.49 dated 01.03.2023 under Sections 406, 420, 467, 468, 471, 506, 120-B IPC registered at Police Station Industrial Area Bhiwani.

2. The present FIR came to be registered on the statement of one Naresh Kumar who stated that he was the Proprietor of Ahuja Enterprises. He alongwith his wife were also in the wholesale trading and distribution business and were running a firm by the name of Vaishno Distributions. The business of the Firms was being managed by him (complainant) and their son Tanuj Ahuja. Pardeep to Ganguly, Monish Mittal (petitioner), Deepak Nakra, Silka Saloni Biswal and Ashok Kumar Sahni were running the wholesale business of Realme Mobile Phones Accessories and their Firm was named MDM Televentures Pvt. Ltd. The said firm was the authorized distributor/sales agent for the entire State of Haryana for the sale of Realme Mobile Phones Accessories. Despite having deposited a total amount of Rs.02,02,35,882.67/- with the accused-Firm for the supply of Realme Mobile Phones, neither were the phones supplied nor was the money refunded back. On the other hand, threats were extended to them (complainant party) that they would face dire consequences if the demand of the money or the phones was made.

3. The learned Senior counsel for the petitioner contends that a bare reading of the FIR does not reveal any offence having been committed

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under Section 420 IPC. There was nothing to suggest that the accused-petitioner or the company had any fraudulent or dishonest intention to commit the offence at the very inception. Therefore, taking the allegations to be true, the case was of a civil dispute at best. So far as the petitioner was concerned, he was to look after the marketing alone. As the petitioner was in custody since 25.04.2023 and the investigation stood concluded, he was entitled to the concession of bail as the trial of the present case was not likely to be concluded anytime soon. Even otherwise, the case was triable by the Court of a Magistrate.

4. The learned counsel for the complainant vehemently contends that the petitioner alongwith their co-accused cheated the complainant of a huge amount of money. Three similar FIRs and various complaints had been instituted against the petitioner, his co-accused and their company. Therefore, the criminal antecedents of the petitioner as also the magnitude of the offence did not entitle him to the grant of bail.

5. The learned counsel for the State has vehemently opposed the bail application contending that not only are the allegations grave but as there were various complaints/FIRs pending against the petitioner, he was likely to abscond from justice, in case he is granted the concession of bail. He, however, concedes that the petitioner is in custody since 25.04.2023, and the investigation stands concluded.

6. I have heard the learned counsel for the parties at length.

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7. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

*“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”*

8. Whether the allegations levelled against the petitioner and his co-accused would constitute a criminal offence or would amount to a civil dispute shall be a subject-matter of adjudication during the trial. Admittedly, the petitioner is in custody since 25.04.2023, investigation stands concluded but none of the 17 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

9. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Monish Mittal is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish

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an affidavit each time that he is not involved in any case/crime other than the cases referred to in this order.

11. If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

12. In addition, the petitioner (or someone else on his behalf) shall prepare an FDR in the sum of Rs.5,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

13. The petitioner shall deposit his Passport with the investigating agency/Trial Court concerned immediately, if not already done so.

**July 19, 2023**  
sukhpreet

**( JASJIT SINGH BEDI)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No