

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

CRM-M-31703-2023

Date of Decision: 07.12.2023

PANKAJ AACHARYA ALIAS ASHOK

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Ashwarya Bajaj, Advocate for the petitioner.

Mr. Mohit Kapoor, Addl. AG, Punjab.

Mr. Neeraj Yadav, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (Oral)

The petitioner is seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No. 74 dated 08.04.2022 under Sections 420, 406 and 120-B IPC registered at Police Station Sector 6 Dharuhera, District Rewari.

2. Learned counsel for the petitioner, *inter alia*, contends that a false and fabricated case has been planted upon him for allegedly cheating the complainant and other innocent persons by misappropriating a sum of Rs.1.5 crores, which was deposited by them in an organization, started by the petitioner and the accused. He further submits that even though the challan including the supplementary challan was presented way back on 04.05.2023 and thereafter charges were also framed, however, after the complainant stepped into the witness-box an application under Section 319 Cr.P.C. was moved for summoning one Sugandha as an additional accused, which came to be allowed subsequently, as a consequence of which a *de novo* trial had since commenced.

He further submits that as many as 51 prosecution witnesses have been cited, however, not even a single witness has been examined after the application under Section 319 Cr.P.C. was allowed by the learned trial Court. He still further submits that more so since the case in hand rests on documentary evidence, further incarceration of the petitioner would serve no useful purpose as there could be no apprehension of the petitioner trying to tamper with material evidence, and he be thus extended the concession of regular bail.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that the petitioner along with other co-accused had cheated the complainant and other innocent persons of an amount of Rs.1.5 crores, out of which Rs.84,00,000/- fell to the share of the petitioner. He has, however, not disputed on instructions that the investigation in the hand is complete and the case rests primarily on documentary evidence; it has also not been disputed that a *de novo* trial has since commenced and thereafter not even a single witness out of the 51 cited by the prosecution have been examined. On a pointed query, learned State counsel on instructions from ASI Ravi Kant has informed the Court that the petitioner is not involved in any other case of similar nature.

4. I have heard learned counsel for the parties and perused the material placed on record.

5. In the facts and circumstances as enumerated hereinabove, the petitioner has been in custody since 27.08.2022 in a magisterial trial; there is no likelihood of the trial concluding in the near future. The instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial

Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
(JUDGE)

07.12.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No