

Riyaz	...	Petitioner
Vs.		
State of Haryana	...	Respondent

Present: Mr.Mazlish Khan, Advocate for
for the petitioner.

1. The petitioner has filed the present petition under Section 439 Cr. PC with a prayer to grant regular bail to him in case FIR No.134 dated 28.04.2023 under Sections 419, 420, 465, 467, 468, 471, 120-B, 34 of IPC, registered at Police Station Punhana, District Nuh (Haryana).

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I attest to the accuracy and
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document/judgment
High Court, Chandigarh

later on, falsely implicated in the present case. Learned counsel further contends that prior to the registration of the FIR, the petitioner was already in police custody. While referring to CD (Annexure P-1), learned counsel submits that the police had taken the petitioner from his house which falsifies the allegations levelled by the police. Even the recovery of ATM swipe machine was planted on the present petitioner. As per learned counsel, the petitioner was arrested in the present case on 28.04.2023 and the challan has already been presented against him. He further contends that there is no other case against the present petitioner. The prosecution has cited 44 witnesses in the challan and the charges have not been framed against him. Thus, the conclusion of the trial may take considerable time.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner got transferred the amount of Rs.1,98,500/- from Kotak Mahindra Bank, HDFC Bank and Axis Bank fraudulently. Even he had earned a sum of Rs. 10,000/- by cheating other persons and the amount was spent by him. Apart from that, one ATM swipe machine was recovered from the present petitioner. Learned State counsel further submits that several criminal cases have been registered against the co-accused and they have cheated hundred of innocent persons. However, she submits that there is no other case against the present petitioner.

4. I have heard learned counsel for the parties and with their able assistance; I have perused the record.

5. The petitioner was arrested in the present case on 28.04.2023 and is in custody for the last more than three months. All the offences in the present

case are triable by the Court of Magistrate. The prosecution has relied upon 44 witnesses, however, the charges are yet to be framed against the present petitioner and the trial before the learned Trial Court may take considerable time and the further custody of the petitioner will serve no meaningful purpose. Apart from that, it has been alleged that several criminal cases have been registered against the co-accused and they have cheated hundred of persons. But the case of the petitioner is clearly distinguishable from his co-accused on the ground that no other case has been registered against the present petitioner.

6. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned

Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.

(vii) The concerned Court may insist two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st and 3rd Monday in English calender month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha. In case, he does not report on every 1st and 3rd Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.

09.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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