114-3 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-40310-2023 (O&M)
Date of decision : 21.11.2023

Omkar Sharma ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. G.C.Shahpuri, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana,
for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.41 dated 10.02.2023, under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code, 1860, registered at Police Station NIT, Faridabad, District Faridabad.

2. Status report dated 07.11.2023 by way of affidavit of Mahesh Kumar, HPS, Assistant Commissioner of Police, NIT, Faridabad, on behalf of the respondent, already filed by learned State counsel, is taken on record. Copy thereof supplied to the opposite side. Registry to tag the same at appropriate place.

3. Above FIR was registered against Jharna Packaging MCF 45, Block A Sanjay Colony, Sector 22, Faridabad, and its proprietor Omkar

Sharma on the basis of statement made by the Manager, Union Bank of India, with the allegations that petitioner had duped the bank by encashing a fake demand draft of Rs.1,00,00,000/- in his firm's account. For brevity, contents of the FIR are reproduced as below:-

> *"1. That the applicant is the Branch Manager of Union Bank of India Branch 5E/3, B.P.Neelam Railway Road, N.I.T., Faridabad. 2. That the CC account No.180413100000283 of the firm Jharna Packaging of accused No.2 is running in the applicant/bank, whose CC limit has been fixed at Rs.20 lakh. 3. That on 19.01.2023, the accused No.2 has brought a DD No.295261 dated 17.01.2023 issued by Union Bank of India Branch Nehru Place, New Delhi, amounting to Rs.1,00,00,000/- in the name of his firm Jharna Packaging in the applicant/bank, which was enchahsed by the applicant/bank in the CC Account No.180413100000283 of accused No.1. 4. That the applicant/bank came to know from the said DD issuing bank that the issuer of the said original DD came to its branch with the original DD to get it cancelled. Then the applicant bank came to know that the accused No.1 and 2 in connivance with each other got the said fake DD encashed from the applicant/bank by fraud and forgery. Therefore, it is a humble request you that a case should be registered against the said accused(s) for cheating and forgery and the said amount should be recovered by taking the strict legal action. I shall be highly obliged."*

4. Learned counsel submits that petitioner has been falsely implicated in the case and fraud, if any, was committed by his co-accused Jagan, who is running a firm in the name of S.K.Enterprises at Faridabad. Further submits that main accused Jagan has already been granted the

concession of regular bail by learned Sessions Judge, Faridabad. Also submits that petitioner is in custody since 15.02.2023 and after investigation, report under Section 173 Cr.P.C. already stands submitted; trial is likely to take sufficient long time; therefore, petitioner be granted concession of regular bail.

5. Per contra, learned State counsel, while opposing the prayer of petitioner, submits that there are direct and specific allegations against him to the effect that he, in collusion with other co-accused, committed fraud with the bank. Further submitted that story put forth by the petitioner is unbelievable as petitioner is the main accused. Also submitted that petitioner in his disclosure admitted the factum of encashing the forged demand draft amounting to Rs.1,00,00,000/- in his firm's account and out of the said amount, he transferred Rs.85,00,000/- into the account of M/s S.K.Enterprises owned by co-accused Jagan Singh and retained Rs.15,00,000/- in his firm's account.

6. Heard learned counsel for the parties and perused the paper-book.

7. It has come on record that the demand draft in question amount to Rs.1,00,00,000/- was a fake and after encashing the same, petitioner had transferred Rs.85,00,000/- in the account of M/s S.K.Enterprises owned & managed by his co-accused Jagan Singh and petitioner retained Rs.15,00,000/- in his firm's account. Thus, *prima facie*, it seems to be a bank fraud and complicity of the petitioner is quite discernible.

8. Consequently, this Court is not inclined to grant bail pending trial to the petitioner at this stage and as such, the petitioner is dismissed.

9. It is clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

10. Pending application(s), if any, shall also stand disposed off.

21.11.2023 **(MAHABIR SINGH SINDHU)**
adhikari **JUDGE**

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No