

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47605-2022
Reserved on: 12.01.2023
Pronounced on: 18.01.2023

Rajnish ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Deepak Kundu, Advocate for the petitioner.

Mr. Rajat Gautam, D.A.G, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
426	18.10.2021	Urban Estate, District Rohtak	420, 120-B C and 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013

1. The petitioner incarcerated in the FIR captioned above, on the allegations of cheating, has come up before this Court under Section 439 CrPC seeking bail.
2. In paragraph 14 of the bail application, the accused declares that no FIR is pending against him; however, as per para 5 of the status report, the petitioner has following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	251	25.04.2020	188 IPC & 61/1/14 of Excise Act	Samalkha, District Panipat
2.	260	28.04.2020	380 IPC	Samalkha, District Panipat
3.	439	04.08.2022	174-A IPC	City Sonipat

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing the bail, the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

5. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. The petitioner is not entitled to bail on parity because the accused who got bail were the employees of the petitioner's company, of which the petitioner was not only a director but practically commanded all operations. The allegations are of duping investors by promising them higher than market interest rates with malicious intent of never to return the principal amount. The total amount allegedly duped is around Rs. Two Crores and the petitioner's custody at this stage is less than six months. The petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, he shall not indulge in criminal behavior. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so. Suffice it to say that a perusal of the bail petition and the documents attached prima facie points towards the petitioner's involvement and does not make out a case for bail at this stage; however, liberty is reserved for filing a fresh bail application before the trial court or sessions court in case the trial does not conclude by June 30, 2023, and such court shall consider the application on the grounds of prolonged pre-trial incarceration without being influenced by any order of rejection.

7. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

18.01.2023
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.