

2023:PHHC:135674

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-52057 of 2023
Date of Decision: 18.10.2023

Sharafat

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Sarfaraj Hussain, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.502 dated 13.04.2023 registered under Sections 406, 420, 467, 468, 471 and 120-B IPC at Police Station City Panipat, District Panipat.

2. The FIR in the present case was registered on the basis of the complaint moved by Vikas against the petitioner and Ashraf by alleging that he was running a shop and used to supply light and generator etc., in the marriages. Sharafat was his neighbourer and both were known to each other. In the month of October 2018, Sharafat came to him and requested for a financial help of Rs. 1.40 lacs and he had handed over a sum of Rs. 1.40 lacs in cash to him on

20.10.2018 for a period of two months. The accused issued a cheque bearing No. 739662 dated 20.12.2018 for a sum of Rs. 1.40 lacs to the complainant. When the complainant presented the cheque, it was dishonoured on 26.12.2018 with the remarks "funds insufficient". He told Sharafat that there was no fund in his account and asked him to return the amount in cash. Sharafat assured him that he would return the amount in a day or two days. Ultimately, when Sharafat did not return the amount, he served a legal notice dated 31.12.2018 on him. On 03.02.2023, at the time of the evidence, it transpired that the cheque, which was issued by Sharafat did not belong to him, rather the same belonged to Ashraf. Ashraf and Sharafat are real brothers and both of them in conspiracy with each other, had cheated the complainant.

3. Learned counsel for the petitioner contends that the petitioner was arrested on 15.09.2023 and is in custody since then. He further contends that a complaint under Section 138 of the Negotiable Instruments Act 1881 was filed against him, however, the petitioner has been acquitted in the said case. He further contends that co-accused Ashraf has already been ordered to be released on bail vide order dated 28.09.2023 (Annexure P-2) passed by the Court of Additional Sessions Judge, Panipat. Still further, the entire case hinges on documentary evidence and no recovery is to be effected from the present petitioner.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against the present petitioner.

5. I have heard learned counsel for the parties and perused the record.

6. The petitioner is in custody since 15.09.2023 and all the offences are triable by the Court of Magistrate. Apart from that, the similarly placed co-accused Ashraf has already been granted the concession of bail vide order dated 28.09.2023 (Annexure P-2) passed by the Court of Additional Sessions Judge, Panipat.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

18.10.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

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