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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-4832-2024 (O&M)
Date of decision : 09.04.2024

Pushkar Dutt @ Pushkar Dutt Sharma Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. P.S. Jammu, Advocate
Mr. Karan Bansal, Advocate and
Mr. R.K. Poonia, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

Mr. A.D.S. Sukhija, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

- 1 Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.429 dated 03.10.2023, registered for the offences punishable under Sections 420, 408 and 381 of IPC (Section 420 deleted later on) at Police Station Ellenabad, District Sirsa.
2. As per the contents of the FIR, it has been alleged as under:-

“Sir, It is submitted that Pushkar Dutt Sharma, resident of Badi Mamera, who was Chief Account in our factory and was serving in the factory for the last ten years. All the account books, netbanking I.D., password etc. were in his possession. He was solely making all the transactions of the factory.

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The C.C. Limit Account No.04424015005585 of our firm is with Punjab National Bank. He has been transferring money from this Account No.4422191004210 in a slow manner through netbanking. Apart from this, if he has any other account, then enquiry may also be got conducted for the same. On dated 27.09.2023 Ravi Parkash asked Pushkar to provide the documents to the C.A. to file the return. Even then Pushkar has not provided the documents to the C.A. At about 6 p.m. he left by informing the other Munim (Accountant) Sunil Kumar that he has to go to hospital to see some relative. When at about 7 p.m. I made call on his mobile to provide the documents to the C.A., then I found his mobile phone switched off. The phone number of any of his family members was not available with me. However, the phone number of his cousin Jatendar, who was earlier working with Jai Hanuman Cotton Factory and at present he is employed at Puna, was available with me. Then I made phone call to Jatendar and enquired that Pushkar left for hospital and has not so far returned back and his phone is also found switched off. Then he told me that let he may enquire from Pushkar's younger brother Ashwani and let me inform thereafter. After sometime, Ashwani informed me on phone that neither Pushkar went to hospital nor reached home. Then he told that he may enquire from the maternal family situated at Madhosinghana. On dated 28.9.2023 I personally visited Punjab National Bank and checked the account. Then I came to know that Pushkar has one by one transferred from the Account of the firm to his saving Account approximately Rs.2,33,88,876/-

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(two crores thirty three lacs eighty eight thousand eight hundred seventy six rupees only). He has even absconded due to this reason. Our above mentioned amount may kindly be got recovered and strict action may be taken against Pushkar Dutt.xxxx”

3. Custody certificate has been produced. As per the same, petitioner is behind bars for more than 05 months and 25 days i.e. almost 06 months.
4. Counsel for the petitioner submits that challan stands presented. There is no cash transaction, whole of the evidence is in form of documentary evidence and in fact the investments were made in the online gaming apps on the pretext by the complainant. He thus, submits that in the magisterial trial where the maximum sentence prescribed under law is 07 years, the petitioner would be entitled for bail. Mr. Sukhija as well as State counsel have opposed the bail plea. Mr. Sukhija submits that keeping in view the amount involved and the *modus operandi* of the petitioner where whole of the amount is evidently transferred to his own account, it is not a case of grant of bail.
5. Having heard rival contentions, without commenting on the merits of the case, keeping in view the custody suffered by the petitioner and the fact that he has clean antecedents, this Court is of the opinion that the custody of the petitioner could not be allowed to be prolonged as a punitive measure, more so when whole of the evidence is in form of documentary and there cannot be any apprehension that he shall tamper with the evidence.
6. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety

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bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

8. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

09.04.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No