

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7457-2024
Date of Decision: 16.02.2024

Tahir Amin Bahadur ...Petitioner
vs.
State of Haryana ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Mohit Jasuja, Advocate with
Mr. V.S.Saini, Advocate
for the petitioner.

Mr. Karan Garg, AAG, 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 regular bail in case FIR No.314 dated 13.07.2023 registered under Sections 420, 467, 468, 471 of IPC, at Police Station DLF Sector-29, Gurugram, District Gurugram.
2. The FIR in the present case was registered on the basis of the statement made by Anuradha wife of Mukesh Kumar and the same has been reproduced below:-

“To Station Incharge MG Road Gurgaon Sir, it is requested that I am Anuradha w/o Shri Mukesh Kumar and resident of Reg.-H.No 404/48/ Bhim Ghar Kheri, Near Shiv Mandir, Part-III, Gurgaon. On date 11-05-23 at 2.30 pm a customer came to my showroom at Shop No. 25 JMD Regent Arcade Mall MG Road. He bought gold coins worth Rs. 2,04,000/- from our shop. At the time of making payment he told my staff to give him the phone number of

their boss, his bank details and he would transfer the money online, then he called me on Whatsapp and sent me a fake screen shot of Rs.2,04,000/- that the payment had been successful. At that time my husband's operation was going on in Pasar Hospital. Because of this, I was a little worried and could not understand anything and I asked my staff to give me the same. After some time, he deleted the screen shot. Then I checked the payment in the bank but no payment had been received, then I realised that I was cheated. Then again he called me from different numbers and sometimes he told me to come to Mewat and sometimes he told me to come to Nehru Place but till now no payment has been received. Please register my case and take legal action against him. The numbers that that person called me were 1(205)289-608,1(970)900-2235. I have received calls from two numbers. I have provided screen shots of whatever was discussed and the CCTV footage of my showroom. Footage has also been given in which the photo of the accused is also there. SD- ANURADHA.”

3. Learned counsel for the petitioner contends that in the present case, it has been alleged that the petitioner had cheated the complainant by sending certain screenshots to her. However, later on, the screenshots were deleted. He further contends that the said gold coins have already been recovered by the police during the course of investigation and no loss of any kind has been caused to the complainant in the present case. Learned counsel further contends that the petitioner was arrested in the present case on 17.07.2023 and is in custody for the last more than 7 months. He further contends that only 03 witnesses, out of total 11 witnesses, have been examined so far and the conclusion of the trial may take quite a long time.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that

07 more criminal cases have been registered against the present petitioner and he does not deserve the concession of bail by this Court.

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

5. In the present case, the petitioner was arrested on 17.07.2023 and is in custody for the last more than 07 months. The prosecution has been able to examine only 03 witnesses, out of total 11 witnesses, so far and the trial Court may take considerable time in concluding the trial. No doubt 07 more cases have been registered against the present petitioner, but the same does not serve as a ground to deny the concession of bail to the petitioner in the present case, especially when he has been able to make out a case for grant of bail in the present case. Thus, the petitioner can never be confined in jail for an indefinite period as the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari Vs. State of U.P., and another 2020(1) R.C.R. (Criminal) 831*** has held that the pendency of several criminal cases against the accused cannot be the basis to refuse the prayer of bail. Similar observations have been made by the Hon'ble Supreme Court in the matter of ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another 2012(1) R.C.R. (Criminal) 586***.

6. Without commenting any further on the merits of the case and the law laid down by the Hon'ble Supreme Court in the matter of ***Prabhakar Tewari's case (Supra)*** and ***Maulana Mohd. Amir Rashadi's case (Supra)***, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial

Court/Duty Magistrate/Chief Judicial Magistrate, concerned, 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 involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on 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 Monday in English calander 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 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.*

16.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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