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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11639-2024

Date of Decision:13.03.2024

Mohd. Aasif @ Dunda

...Petitioner

Vs.

State of Haryana

...Respondent

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

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

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 439 Cr. PC with a prayer to grant regular bail to him in case FIR No.134 dated 28.04.2023 under Sections 419, 420, 465, 467, 468, 471, 120-B, 34 of IPC, registered at Police Station Punhana, District Nuh (Haryana).

2. Learned counsel for the petitioner contends that the earlier petition for grant of bail has been withdrawn by him on 12.10.2023 and now the present bail petition is coming up for consideration before this Court after a gap of more than 5 months. Learned counsel further submits that the prosecution has only been able to examine 20 witnesses, out of total 44 witnesses and the conclusion of the trial may take quite a long time and the present petition has been filed after 5 months of dismissal of the earlier bail petition.

3. As per the story of the prosecution, on 28.04.2023, the police received a secret information that Riyaz son of Ayyub, Asif son of Ayyub, Mohd

Aasif son of Jan Mohd., Mubarik @ Mubbi son of Deenu, all residents of Village Luhinga Kalan and Jahul son of Hanif, resident of village Tundlaka, were keeping ATM cards and mini swipe machines of different banks and were cheating the public by opening the fake accounts in the bank. As per the secret informer, the said persons were present in the hills of the Village Luhinga Kalan and accordingly, a raid was conducted. Five persons were found present there and were apprehended by the police and different recoveries were made from the accused. Learned counsel for the petitioner submits that the petitioner and other co-accused were taken away from their house by the police and were later on, falsely implicated in the present case. Learned counsel further contends that prior to the registration of the FIR, the petitioner was already in police custody. Even the recovery of ATM swipe machine was planted on the present petitioner.

4. Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 28.04.2023 and the challan has already been presented against him.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that serious allegations have been levelled against the present petitioner and one ATM swipe machine was also recovered from the present petitioner. However, she further submits that two more cases have already been registered against him and he had cheated several persons.

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

5. The petitioner was arrested in the present case on 28.04.2023 and has undergone more than 10 months of actual custody. Even 24 prosecution

witnesses are yet to be examined and the conclusion of the trial may take quite a long time.

6. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/Duty Magistrate/Chief Judicial Magistrate 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 involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.*

(vii) The concerned Court may insist 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 and 3rd Monday in English calender 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 and 3rd 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.

13.03.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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