IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-19787-2024

Date of Decision:-22.07.2024

Rohan Banele.

......Petitioner.

Vs.

State of Punjab.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Abhishek Khullar, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

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JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.145 dated 15.12.2022 under Sections 420, 120-B IPC and Section 66(D) of Information Technology Act, 2000 registered at Police Station Daresi, District Ludhiana.

2. The present FIR came to be registered at the instance of Gurdit Singh and reads as under:-

> " *At this time one application UID No. 2382524 dated 27/06/2022 from Gurdit Singh son of Sarjit Singh resident of house No. 1007/2, street No. 6. Basti Jodhewal, Ludhiana has been received through post. The contents of the application are as, "To the Hon'ble Commissioner Sahib, Ludhiana. Subject: In regard of undertaking legal proceedings against the person committing online fraud/cheating. Sir, it is submitted that I Gurdit Singh son of Sarjit Singh is the resident of house No. 1007/2, street No. 6, Basti Jodhewal, Ludhiana. That my mother got a phone call from an unknown number from abroad who introduced*

> *himself as my maternal Uncle (Mama) to me. Who is residing in German. He also told me that he is sending us an amount of 16 lakhs which he will get from us when he will come to India. He has also sent me a slip regarding sending money. Later on he told us to give sum amount out of this money to an agent and in regard to the same he asked us to send 7 lakh. In regard to the same he also sent us account No. 41033631002 IFSC Code No. SBIN 0018525 and 41058950461 IFSC Code No. SBIN 0003867. Today on 24/06/2022 an amount of 3 Lacs has been transferred and is asking for some more money. Later on I came to know that I have been cheated. This is for your information. I shall be very thankful to you. Yours faithfully: Gurdit Singh.*"

3. During the course of the investigation it transpired that an amount of Rs.1,50,000/- had been deposited in the account of the petitioner.

4. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact he was unaware that an account had been opened in his name and now got to know when the instant FIR came to be registered. As the petitioner was a first time offender, in custody since 15.12.2023 but only 02 of the 09 PWs had been examined so far, therefore the Trial of the present case was not likely to be concluded anytime soon and the petitioner was entitled to the concession of bail more so when the case was triable by the court of a Magistrate.

5. The learned State counsel has filed status report by way of affidavit of Mr. Jayant Puri, IPS, Assistant Commissioner of Police, (North), Ludhiana in the court today, which is taken on record. While referring to the said reply he contends that the investigation conducted so far clearly shows that an amount of Rs.1,50,000/- had been received in the account of the petitioner. The complainant had been cheated of an amount of Rs.3 lacs. The nature of the allegations levelled against the petitioner did not entitle him to the concession of bail. He however concedes that the petitioner was a

first time offender, in custody since 15.12.2023 but only 02 of the 09 Pws had been examined so far and that the case was triable by the court of a Magistrate.

6. I have heard the learned counsel for the parties.

7. This Court in the case *titled as* ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab*** bearing ***CRM-M-24033-2021(O&M)*** *Decided on* ***31.08.2022*** has held as under:-

> " *Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts), in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant."*

8. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, he is a first time offender, in custody since 15.12.2023 but only 02 of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses, if he is granted the concession of regular bail. Therefore, his further incarceration is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Rohan Banele** son of Sh. Mulesh Banele is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate,

concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioners from the Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 22, 2024
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***