

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

245

CRM-M-22903-2024 (O&M)
Date of Decision:- 10.09.2024

SOYABUDEEN

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Tushar Gautam, Advocate for the petitioner.
Mr. Surender Singh, AAG Haryana.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
38	17.09.2023	120-B, 419, 420, 406 and 204 IPC	Cyber Crime, Ambala

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner is not named in the FIR and has been nominated on the alleged disclosure statement of co-accused Shariq Khan, with whom the petitioner has no concern. He further contends that the petitioner was not the beneficiary of any such transaction and is not involved in any other



criminal case. He submits that the petitioner is in custody since 09.12.2023 in the present case triable by the Court of Magistrate. He further submits that challan has already been presented and the prosecution has cited 12 witnesses, but till date none has been examined. Hence prayed for grant of bail to the petitioner.

3. *Per contra*, learned State counsel while referring to the reply submitted by the State has assailed the arguments advanced by learned counsel for the petitioner by submitting that the petitioner had actively participated in the crime and as such does not deserve the concession of bail. He has, however, admitted that no other criminal case is registered against the petitioner and out of 12 witnesses cited by the prosecution, none has been examined till date.

4. Heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and perusing the record, it transpires that the instant case was registered on the complaint moved by one Ramesh Saini to the effect that accused Sonia Kapoor, along with other accused by hatching a criminal conspiracy has cheated the complainant of ₹1,58,000/- by inducing him to deliver the said amount on the pretext that he will earn money by working online. It is alleged that when the complainant asked for return of the money, the same was refused.

6. The perusal of the record would reveal that although the learned State counsel has claimed the petitioner to be part of a gang committing cybercrime by duping innocent citizen, however, the custody certificate would reveal that there is no other criminal case registered against the



petitioner. The petitioner is in custody since 09.12.2023 and after his arrest, recovery of a mobile phone and ₹1,20,000 was effected from the petitioner. After the completion of investigation, challan has already been presented against the petitioner. The prosecution has cited 12 witnesses, but till date none has been examined. Considering all these aspects coupled with the fact that the petitioner is not a previous offender and is not having any criminal antecedents, no purpose would be served by detaining the petitioner any longer. The criminal liability, if any, of the petitioner, could only be determined after the conclusion of trial, which may take sufficient long time.

7. Consequently, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Judge on Duty/Duty Magistrate concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending miscellaneous application(s), if any, stand disposed of.

(SANJIV BERRY)
JUDGE

10.09.2024
S.Sharma(syr)

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |