



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

226

CRM-M-26616-2024

Date of decision: August 6th, 2024

Devinder Gandhi alias Dev Inder Gandhi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Parminder Singh-I, Advocate
for the petitioner.

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.192 dated 11.08.2022 under Sections 420, 120-B/34 of the IPC registered at Police Station Canal Colony, Bathinda.

2. Mr. Hitesh Verma, Advocate, has entered appearance on behalf of the complainant and filed his power of attorney, which is taken on record.

3. Learned counsel for the petitioner submits that in a magisterial trial, the petitioner has been in custody since 29.05.2023 for allegedly cheating the complainant of ₹40 lakh on the pretext of sending him abroad. Learned counsel submits that the investigation in the present case is complete as challan stands presented and charges also framed, coupled with the fact that two witnesses out of the 19 cited by the prosecution having been examined. Learned counsel has submitted

that since the case at hand rests on documentary evidence, and which is already part of the challan, there can be no apprehension of the petitioner tampering with evidence. A prayer has, therefore, been made to extend the concession of bail to the petitioner.

4. *Per contra*, learned State counsel assisted by learned counsel for the complainant, has vehemently opposed the prayer made by the counsel opposite by inviting the attention of this Court to the allegations levelled in the FIR. It has also been submitted that the petitioner is a habitual offender as he is involved in five other cases, although they are under Section 138 of the Negotiable Instruments Act. Learned State counsel has further not disputed the stage of the trial and the factum of the present case hinging on documentary evidence.

5. Learned counsel for the petitioner has, however, disputed the submissions made by the counsel for the State qua his involvement in five other cases under Section 138 of the Negotiable Instruments Act by contending that it is a matter of record that the petitioner has since been acquitted in all those cases.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. The petitioner has been in custody since 29.05.2023; the case at hand hinges on documentary evidence, which as not disputed by the learned State counsel, is part of the challan. The trial would take considerable time to conclude as 17 prosecution witnesses still remain to be examined.

8. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is

made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

9. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

August 6th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No