IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

224 (**PROCEEDINGS THROUGH HYBRID MODE**)

CRM-M-29915-2024
Date of decision: August 7th, 2024

Rahul Yadav

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Priyanka Deo, Advocate
with Mr. Amit Kumar, Ms. Anmol Garg
and Ms. Mehndi Singhal, Advocates
for the petitioner (through V.C.).

Mr. Gagandeep Singh Chhina, Assistant Advocate General, Haryana.

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.58 dated 12.12.2022 under Sections 419/420/467/468/471/120B of the IPC and Sections 66C & 66D of the I.T. Act registered at Police Station Cyber Crime NIT, Faridabad.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 11.09.2023 in a magisterial trial. She submits that as per allegations levelled, the complainant was cheated of an amount of ₹39 lakh out of which ₹8,65,000/- were routed to the bank account of the petitioner. Learned counsel submits that the petitioner has clean antecedents and is not involved in any other criminal case much less a case of similar nature. It has also been submitted that identically placed co-accused has since been extended

the concession of bail by a coordinate Bench of this Court on 24.05.2024. Learned counsel has still further submitted that since it is a case based on documentary evidence, which is already part of the final report presented before the trial Court, under Section 173 of the Cr.P.C., there can be no apprehension of the petitioner tampering with evidence or intimidating the witnesses. She submits that 11 prosecution witnesses still remain to be examined, hence, further incarceration of the petitioner would serve no useful purpose as the trial would take considerable time to conclude.

3. *Per contra,* learned State counsel while opposing the prayer and submissions made by the counsel opposite, has reiterated the allegations levelled in the FIR in question, which stands reproduced hereinunder:-

> *"To, the SHO Cyber Crime NIT Faridabad Sub- Regarding fraud of Rs. 39 lakh in the name of giving franchise of Burger King. Sir, it is requested that I am Rajeev Sharma S/o Shrichand Sharma R/o H.No.-100, Mahesh CGHS Sec-21C Faridabad. I was searching on Google to get Burger King Franchise in September 2022, then I found a site by the name of Burger King Franchise, I clicked on it and came to fill the form, in which I entered my email id and mobile number. Entered my email id- rajivsh1971@gmail.com and M.No. is 9717423252. After that I got an email from info@burgerKingFarnchaise.in, in which they asked for documents from me and during that time I got a call from M.no.-7890140252, in which he told his name as Gaurav Bansal CRM Burger King and asked me for information and I sent Aadhar Card, PAN Card, Bank Statement Educational Certificates and photo on 25/11/22 to his mail ID. After that they asked me for documents from Burger King's mail ID and sent them to my mail ID. Copies of the same are attached. To get the franchise in the name of my wife Ritu Sharma, I sent all the documents as told by me, got my wife's signature on all the documents and sent them to her email id, after that they charged me Rs. 2, 65,500/- in the name of Franchise*

> *Registration Fee, later Rs. 5,90,000/- in the name of Opening Inventory/NOC, after that Rs. 11,80,000 (10 Lakh + 1,80,000) in the name of License and Legal Accounting, after that Rs. 12,75,000/- (5 Lakh +5 Lakh +2.75Lakh) in the name of Machine and Equipment, in which receipt of some payment has been given to me. After that I received call from M.No.9088037314 of Amit Srivastva, Burger King and he said that your file has come to me, I have sent this amount to 3 bank accounts given by them, which are of Canara Bank- A/C No. 110080686442, CNRB0002840, 2. A/C No. 110084817397,-do- 3. A/C No. - 110069829830,-do- I transferred this amount of Rs. 2,75,000 from my Bank A/c No.004001551360 Branch Greater Noida west. I transferred the remaining amount from my wife Ritu Sharma's Bank A/c 414601505108 Branch Gr. Noida (w) as Approx. Rs.36,25,000/-has been sent, its statement is attached. I was defrauded of Rs. 39 Lakh in the name of giving me the franchise of Burger King. You are requested to please take action and get my money back."*

4. Learned State counsel has, on instructions, however, not disputed the stage of the trial and the fact that the case in hand rests on documentary evidence. It has also not been disputed that the petitioner is not involved in any other criminal case, much less a case of identical nature.

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

6. The petitioner has been in custody for almost a year having been arrested on 11.09.2023; the case at hand hinges on documentary evidence. The trial would take considerable time to conclude as 11 prosecution witnesses still remain to be examined.

7. 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.

August 7th, 2024 **(MANJARI NEHRU KAUL)**
Puneet **JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No