

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

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2024:PHHC:032153

CRM-M-31983-2023 (O&M)

Date of decision: March 6th, 2024

Mohammad Fojan Aalam

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gaurav Grover, Advocate
with Ms. Charu Sharma, Advocate
for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.14 dated 28.11.2022 under Sections 66 (C) and 66 (D) of the Information Technology Act, 2000 and Sections 120-B, 419, 420, 467, 468, 471 of the Indian Penal Code, 1860 at Police Station Cyber Crime, District Palwal.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner, who has been in custody since 10.01.2023, has been falsely implicated in the case in hand for being part of a gang, which had been committing online frauds by cloning thumb impressions of different people and then making transactions on the Aadhaar Enabled Payment System. Learned counsel submits that the petitioner has clean antecedents, which further lends credence to his false implication in the instant case. It has also been submitted that since the investigation in the case at hand is complete and two witnesses out of the 19 cited by the

prosecution already stand examined, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude; it has also been submitted that since the case is based on documentary evidence, there could be no apprehension of the petitioner tampering with material evidence or even trying to intimidate/influence the witnesses during the course of the trial.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not disputed the stage of the trial and the factum of the petitioner not being involved in any other criminal case much less a case of similar nature. He has, however, submitted that the petitioner had withdrawn an amount of ₹4500/- after cloning the thumb impression of some persons through unauthorized Aadhaar Enabled Payment System.

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

5. Concededly, the petitioner is not involved in any other criminal case much less a case of similar nature. The recovery of the amount allegedly withdrawn by the petitioner already stands effected. The trial will take considerable time to conclude as 17 prosecution witnesses still remain to be examined.

6. 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.

7. 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.

March 6th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned :

Yes

Whether reportable :

No