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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-37637-2024 (O&M)
Date of decision: 10.09.2024

Raj Ghosh **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Neeru Bansal, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 of Cr.P.C. seeking modification of order dated 29.05.2024, passed by the Court of learned Additional Sessions Judge, Sonipat in case arising out of FIR No. 09 dated 16.12.2022, registered under Sections 386, 120-B, 419, 420, 467, 468 and 471 of IPC at Police Station Cyber Crime, Sonipat, whereby while allowing the bail application of the petitioner, he has been put to a condition to place an FDR of Rs. 5 Lakhs on the case file as security.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the aforesaid case. He was arrested on 18.04.2023. He had moved an application for grant of regular bail before the trial Court, which was allowed. However, a condition was imposed therein upon the petitioner to place an FDR of Rs. 5 Lakhs on the case file as security. The petitioner had filed an application for waiving off the said condition but the same had been dismissed by the trial Court, vide order dated 01.07.2024.

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Learned counsel for the petitioner has further argued that though the petitioner was ordered to be released on 29.05.2024, however, due to aforesaid onerous condition, the petitioner, who is in fact a poor person, could not fulfill the aforesaid condition and is still behind bars. Learned counsel has drawn attention of this Court to order dated 09.05.2024 passed by the coordinate Bench of this Court in CRM-M-10226-2024, whereby co-accused Aravinda M was granted concession of regular bail but no such condition was imposed upon him. It is, therefore, urged that the present petition deserves to be allowed.

3. On the other hand, learned State counsel, while opposing the prayer of the petitioner, has submitted that there is no infirmity in the impugned order as the aforesaid condition has been imposed in order to ensure the presence of the petitioner before the trial Court on each and every date, when it is so required. Therefore, he has urged that the petition is liable to be dismissed.

4. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

5. The petitioner had admittedly been granted concession of regular bail by the trial Court by passing the order dated 29.05.2024. However, a condition was imposed upon him to furnish an FDR to the tune of Rs. 5 Lakhs as security in order to ensure his presence during trial. The petitioner had moved an application seeking waiving off the said condition but the same had been dismissed by the trial Court. Due to non-fulfillment of the condition in question, he is still in custody. The factum of being in custody only because of the fact of non-fulfillment of the aforesaid condition is itself indicative that the petitioner is not in a condition to furnish an FDR of Rs. 2 Lakhs. Therefore, keeping in view

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the facts and circumstances of the case and also in view of the fact that the petitioner could not come out of jail on bail only because of not being able to furnish an FDR of Rs. 5 Lakhs, the present petition is partly allowed. The petitioner is directed to furnish an FDR of Rs. 2 Lakhs instead of Rs. 5 Lakhs, in terms of order dated 29.05.2024.

10.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No