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CRM-M-37425-2024 (O&M)

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

CRM-M-37425-2024 (O&M)

Date of decision: 05.11.2024

Rajesh Kumar**....Petitioner.****Versus****State of Haryana****....Respondent.****CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Chanderhas Yadav, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

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SANJIV BERRY, J. (ORAL)**CRM-39471-2024**

Keeping in view the averments made in the application, document is taken on record as Annexure P-8 subject to all just exceptions.

2. Registry to do the needful.
3. Disposed of.

Main case

Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are as under: -



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FIR No.	Dated	Sections	Police Station
783	23.08.2022	119, 120-B, 166, 204, 34, 35, 403, 406, 409, 417, 418, 420, 426, 465, 466, 467, 468 , 477-A and 506 IPC and 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013	HTM, Hisar, District Hisar, Haryana

2. Heard.
3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case on the allegations that he had submitted a fabricated audit report. He contends that the petitioner is in custody since 26.04.2024 having no criminal antecedents. He contends that challan has already been presented in the Court and moreover has referred to the report dated 03.07.2024 (Annexure P-8) given by the office of the Audit Officer, Cooperatives Societies, Hisar, wherein, it is mentioned that the perusal of the audit report submitted by the petitioner cannot be said to be fabricated. Hence, prays for grant of anticipatory bail.
4. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail application by arguing that the petitioner in connivance with the other co-accused is involved in bungling of Rs. 79 lacs pertaining to the Co-operatives Societies and as such, the petitioner is not entitled to concession of bail. However, he admitted that the petitioner is not having any criminal antecedents and



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challan has already been presented wherein 36 witnesses have been cited but none has been examined till date.

5. After considering the rival contentions and perusing the record, it transpires that the instant FIR was registered against the petitioner and other co-accused on the allegation of usurping of the funds of the concerned Co-operatives Societies by them and the allegation against the petitioner is that he had prepared fabricated and fictitious audit report of the concerned Co-operatives Societies while acting in connivance with the other co-accused. The petitioner was arrested in this case on 26.04.2024 and after completion of investigation challan has already been presented in the Court, wherein the prosecution cited 36 witnesses out of which none has been examined till date in the present case, moreover, it is pointed out that the Co-operatives Societies in question have already been under liquidation and the records thereof have already been seized, the conclusion of trial to ascertain the criminal liability, if any, of the petitioner which is triable by the Magistrate will take sufficient long time and in these circumstances, it is observed that no purpose would be served in detaining the petitioner in custody any longer to face the incarceration till the conclusion of trial.



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6. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

7. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petition stands allowed.

10. Pending miscellaneous application, if any, also stands disposed of.

(SANJIV BERRY)
JUDGE

05.11.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |