IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42704-2024
Reserved on: 16.10.2024
Pronounced on: 23.10.2024

Vijay ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Parveen K. Rohilla, Advocate
for the petitioner.

Mr. Vishal Kashyap, D.A.G., Haryana.

Mr. Sanpreet Sandhu, Advocate for
Mr. Ashish Pannu, Advocate
for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
258	09.06.2023	Kurukshetra University, Kurukshetra	406, 420 IPC (Section 120-B IPC and 12 of Chit Funds Act added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. Per paragraph 9 of the bail application, the accused has the following criminal antecedent:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	146	19.07.2022	328, 506, 376 (2) (n) IPC	Women Police Station Karnal

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> *"2. That the brief facts of this case are that on 09.06.2023, a complaint dated 15.05.2023 was received from SP Office Kurukshetra to the SHO, PS Kurukshetra University Kurukshetra*

after a preliminary enquiry conducted by the DSP, Kurukshetra in which it was alleged by the complainant Baljit Singh son of Dhan Sigh resident of Shanti Nagar, Kurukshetra that accused Gulab Deen resident of village Nidana District Jind, Sunil Thakur resident of village Ding, District Sirsa, Pankaj resident of Hisar and petitioner Vijay Chadda resident of Niwarsi, PS Ladwa and Balkar, Satpal & Himansu etc. have committed a fraud and cheated him in the name of providing benefit through Crypto Currency and MLM because the accused Gulab Deen who was known to him since twelve year and he was driving his vehicle occasionally, as per his requirement. Accused Gulab Deen introduced him with a person namely Sunil Thakur resident of Ding. District Sirsa and told that they are working of Octa token in the company of main accused/petitioner Vijay Chadda and getting more profits. Accordingly, they both instigated him to invest money for profit but he denied doing so. After 4-5 days, they again came and told him to invest money in Octa token and assured to return the same within three months along with benefit share of income. They also took guarantee of it. At that time, he had rupees 33 Lakhs in his account and rupees 11 Lakhs in cash in hand for sending his son abroad but he got influenced with both accused. Hence, on their repeated guarantee he gave them Rupees 20,000/- on 11.01.2023, 25,000/- on 14.01.2023, 25,000/- on 14.01.2023, 22,000/- on 14.01.2023, 25,000/- on 15.01.2023, 25,000/- on 15.01.2023 (all through online/UPI transactions and Rupees 10 lakhs through cheque no. 55247 in favor of main accused/petitioner Vijay Kumar in account no. 920020053159044 and another cheque no. 55250 amounting to Rupees 8,76,950/- on 19.01.2023 in favor of account of petitioner Vijay Kumar main accused, Rupees 10 lakhs through cheque no.293291 in favour of accused/petitioner Vijay on 25.01.2023. Therefore, Rupees 30,18,950/- were deposited in account and rupees 2,23,050/- were given in cash on 21.01.2023, Rs. 1,83,220/- on 26.01.2023, Rupees 8 lakhs in cash on 27.01.2023 etc. (total amount in cash 12,06,270/-). In response of the above said payment made by the complainant, Vijay petitioner/ main accused returned a cheque no. 00788 amounting to rupees 21 lakhs and another cheque no. 00790 amounting to rupees 10 lakhs on 21.01.2023 but both cheques were bounced. Further, for putting more faith petitioner Vijay returned an amount of Rupees 3,53,015/- on 24.01.2023 in his saving account no. 913010031536211. Rupees 50,000/- on 25.01.2023, Rupees 1,69,000/- on 28.01.2023, Rs. 50,000/- on 28.01.2023, Rs. 50,000/- on 10.02.2023, Rs. 50,000/- on 17.02.2023 in above said account of the complainant. Hence, total amount of Rupees 7,22,015/- were returned. After it, they took again an amount of rupees 8 lakhs on 27.01.2023 on the pretext of investment to be made after coming wallet, but no wallet came and the company has closed. The website of company was/is running but amount cannot be withdrawn from it. After it, they called him at Karnal in a hotel 5 or 6 time where accused/petitioner Vijay Chadda, Satpal, Himansu and Balkar mate him and assured. After it, they denied to return the amount but accused Gulab Deen and

> *Sunil Thakur again assured him to return the amount and taken guarantee as well. When he pressurized accused Gulab Deen and Sunil Thakur for returning of amount they introduced a person namely Pankaj with him on 24.03.2023 but in vain. On repeated request they ignored making him any payment and closed to talk with him due to which he fell ill and his uric acid and sugar increased. Hence, complainant requested to take strict action against the accused and petitioner.*
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> *3. That on the said complaint a case FIR no. 258 dated 09.06.2023 under section 406,420,120-B IPC and 12 Chit Fund Act 1982 was registered/added in Police Station KUK, District Kurukshetra and the case was investigated by the local police."*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

> *"4. That during the investigation on 14.06.2024 main accused/petitioner Vijay son of Subhash Chand resident of Ladwa District Kurukshetra was arrested as per the provision. During interrogation he made his disclosure statement and admitted the allegation of doing the work of Chit Fund Cripto to cheat and grab money from the people as leveled against him by the complainant. He also agreed to get arrest co- accused Sunil Thakur, Gulab Deen and Javed Khan. He admitted that on 16.01.2023 Rupees 10 Lakhs, Rupees 8,76,950/- on 19.01.2023 and Rupees 10 lakhs on 25.01.2023 he received from co- accused Baljit Singh. Apart from above some amount was taken into cash from co-accused Baljit Singh. Accordingly, total 38 lakhs rupees were obtained by the petitioner out of which 7 lakhs rupees were return to Baljit Singh. He also admitted that the recovered amount distributing among all the accused. He also admitted that some amount was obtained by Sunil Thakur, Gulab Deen and Javed Khan. As per disclosure statement of the accused/petitioner Vijay, the police took his remand of 2 days from the Learned Court to get recover rupees one lakhs from Karnal as per his statement. But during the way towards Karnal, near Traory he again got recorded his disclosure statement on the same day i.e. 14.06.2024 and stated that his earlier statement of Rupees one lakh to be recovered from Karnal is false, in fact he spent all the money for visiting here and there. He also admitted that Satpal Singh son of Bal Kishan resident of Village Haibatpur, Karnal who's mobile number 9911120021 and Himansu mobile no. 9306907040 were helping me in this crime. He also admitted that he used to deposit some amount in the account of Satpal and Himansu from his account of IDBI Bank account no. 92241040000043315*

and YES Bank account no. 07879140000145 at Ladwa branch. Both the discloser statement memo was prepared and got signed by accused along with other police personal on 14.06.2024. Which was signed by him and another witnesses. The petitioner Vijay clearly disclosed that he knows accused Gulab Deen and his mobile no. is 94165-34520 and he resides in village Nidana District Jind. On 15.06.2024 police tried to arrest another accused but could not success hence, the petitioner was sent to judicial custody after making his medical report on 15.06.2024. The bank statement of Vijay regarding transaction of 38 lakhs was recovered from bank account no. 07879140000145 dated 01.01.2023 to 31.03.2023. The recovery memo was prepared which was signed by YES Bank manager and Investigating Officer.

6. That in view of the submission made in the above mentioned paras, it is clear that petitioner is the main accused of this case who directed the other accused to instigated the complainant to invest his money in the company of petitioner Vijay, in which complainant invested/paid an amount of Rs. 30,18,950/- through bank account and Rs.12,06,270/- in cash to accused/petitioner Vijay Chadda out of which major amount of complainant was not returned back by the petitioner and all accused along with the petitioner Vijay grabbed it. Hence, petitioner and other accused cheated the complainant by getting investment of said amount in which the present petitioner was duly involved being the main accused and most of the share of benefit was duly received by petitioner Vijay, in his account. The main accused/petitioner deposed their share of grabbed money in the bank accounts of other co- accused."

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, per paragraph 4 of the reply filed to the bail petition, the petitioner was arrested on 14-06-2024. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 04 months. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

23.10.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.