IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-45162-2024
Date of decision : November 12, 2024

Manjeet Buri ....Petitioner

Versus

State of UT, Chandigarh ....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sahil Khunger, Advocate, for the petitioner
Mr. Rajiv Anand, Addl. PP for UT, Chandigarh

KULDEEP TIWARI,J. (ORAL)

1. Through the instant petition filed under Section 439 Cr.P.C., the petitioner prays for grant of regular bail in case FIR No.17 dated17.02.2024, under Sections 419, 420, 120-B of the IPC (Sections 467, 468,471 of the IPC added subsequently), registered at P.S. Cyber Crime, U.T.Chandigarh.

ALLEGATIONS IN THE FIR

2. The present FIR derives its origin from a complaint made by one Sachin Aggarwal (hereinafter referred to as the 'complainant'). Succinctly stated, the allegations levelled in the present FIR are that, the complainant came across an advertisement on Facebook regarding financial services and accordingly he joined the group provided in the said

advertisement. In that group, the complainant came in contact with two boys, who used to make him recommendation about sale and purchase of stocks. The complainant was in-duced to open a Demat Account through a weblink and he was joined a fake Demat Account, which used to show him his increasing profits. At the inducement of accused, the complainant transferred funds to the tune of ₹ 27,00,000/- in different accounts provided to him by accused. However, after receiving funds from the complainant, he was told that his account has been frozen and the amount deposited therein would be seized. This fraud propelled the complainant to make a complaint, which consequently constituted the bedrock for registration of the present FIR.

DETAILS OF INVESTIGATION

3. During investigation, it surfaced that a sum of ₹ 18,88,000/- and Rs 7,80,000/- were transferred in two accounts, which were maintained at Jaipur. It is further revealed that the said amount of Rs 18,88,000/-, was transferred to the account of a Firm, in which, the present petitioner is a Proprietor.

4. During the course of investigation, in total 04 persons becoming nominated as accused in the present FIR, out of which, 03 have already been arrested, and one accused namely Aditya, is absconding, and an L.O.C. has been issued against him

SUBMISSIONS OF LEARNED COUNSEL FOR THE PETITIONER

5. The learned counsel for the petitioner, in his asking for the

hereinabove extracted relief, has made the following submissions:-

> *(i) The petitioner has not been named in the FIR, rather his name surfaced during the investigation when the money trail was traced out;*
>
> *(ii) the petitioner is a man of clean antecedents, and has suffered incarceration of more than 7 months and 13 days, as on today'*
>
> *(iii) The Final Report against 03 accused (including petitioner), has been presented on 29.05.2024, however, charges have not yet been framed. Therefore, when trial is not likely to conclude any-time soon, keeping the petitioner behinds the bars would serve no gainful purpose;*

SUBMISSIONS OF THE LEARNED PUBLIC PROSECUTOR

6. Reply dated 11.11.2024 by way of affidavit of Sh. A. Venkatesh, DANIPS, DSP-CYBER CRIME & IT, UT, Chandigarh and custody certificate qua the petitioner are filed today in Court by the learned State counsel, and the same are taken on record.

7. Per contra, the learned Public Prosecutor has, by drawing attention of this Court towards the hereinafter extracted role of the petitioner, as mentioned in the reply dated 11.11.2024, opposed the grant of regular bail to the petitioner. He has further submitted that the main accused is still absconding and release of the petitioner on bail would affect

the investigation.

> *"ROLE OF PETITIONER*
> *4.1 That the Present Petitioner [Manjeet Buri] is actively involved in the commission of afore-said crime. During the course of investigation, it was found that Petitioner has opened fake Bank Account No. 2302266154538125 in the name of Shyam Fal and Sabji Bhandar with fake KYC documents with the help of other co-accused i.e. Ashish Saxena. It is further submitted that the Petitioner has mentioned false particulars like address, phone number, etc while opening the bank account and has cleverly bypassed the verification procedure with help of other co-accused.*
> *4.2 That as per the Account statements and other documents it is clearly shown that Petitioner [Manjeet Buri] has received alleged amount to the tune of Rs. 18.88 Lakhs from the complainant in the above-said bank account. This shows that the Petitioner is said to be direct beneficiary of the alleged amount to the tune of Rs. 18.88 lakhs.*
> *4.3 That the call detail records were perused by the investigation agency reveals that the Petitioner [Manjeet Buri] was regularly in touch with other co-accused i.e. Aditya Jain, Ashish Saxena & Himanshu Jain. It is pertinent to mention that the present Petitioner is actively involved in the present crime and against him challan stands presented."*

8. After having instructions from the quarter concerned, the learned Additional PP submits that the final report in the instant case has been filed on 29.5.2024, and charges are yet to be framed, and the prosecution has cited total 18 witnesses in it final report.

REASONS FOR ALLOWING THE INSTANT PETITION

9. This Court has heard the rival contentions of the learned counsel for the parties, and is of the view that the present petition is

amenable to be allowed for the hereinafter extracted reasons:-

> ***(i)it is not under dispute that all the offences mentioned in the instant FIR, are triable by the learned Judicial Magistrate Ist Class;***
>
> ***(ii)it is also not under dispute that till date, no prosecution witness has been examined so far as charges are yet to be framed***
>
> ***(ii)that the petitioner has suffered incarceration of 07 months 13 days as on today and he is not involved in any other case;***

10. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**, however, subject to the conditions enumerated hereinafter.

> *(i) The petitioner shall forthwith, in case he possesses, deposit his passport with the learned trial Court concerned;*
>
> *(ii) The petitioner shall not cause any impediment or adopt any dilatory tactics, thereby causing delay in conclusion of the trial;*
>
> *(iii) The petitioner shall not, except for strong and compelling reasons, absent himself from the trial proceedings. In case he does so, the learned trial Court concerned shall pass appropriate orders warranted under law against him. Moreover, thereafter the issue of grant of bail to the petitioner would be considered only after examination of all the prosecution witnesses;*
>
> *(iv) In the event of the petitioner making any attempt to influence or threat any of the victim(s)/witness(es) cited by the prosecution, the same shall be construed to be*

violation of the terms and conditions of bail and then the respondent-State would be at liberty to institute an appropriate motion, thus seeking cancellation of bail granted to the petitioner.

11. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

(KULDEEP TIWARI)
November 12, 2024 **JUDGE**
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Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No