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2024:PHHC:138571



CRM-M-47994-2024

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-47994-2024
Date of decision: 22.10.2024

Ashish KharePetitioner.

Versus

State of HaryanaRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sandeep Kumar, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.
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SANJIV BERRY, J. (ORAL)

Instant petition has been filed under Section 483 of the
Bhartiya Nagarik Suraksha Sanhita 2023 (BNSS) for grant of regular
bail to the petitioner in case FIR (Annexure P-1). Details of the FIR are
as under: -

FIR No.	Dated	Sections	Police Station
36	08.11.2023	120-B, 201, 420, 467, 468 and 471 IPC	Cyber Crime, Sonipat, District Sonipat

2. It is, *inter alia*, contended by learned counsel for the
petitioner that the petitioner is innocent and has been falsely implicated
in this case. He contends that the petitioner is neither the beneficiary of
any transactions nor any amount has been deposited in his account. He

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contends that the petitioner is in custody since 18.01.2024 and after completion of investigation, challan has already been presented in the Court in the present case which is triable by the Court of Magistrate, wherein the prosecution has cited 09 witnesses but none has been examined till date. He contends that even there is nothing on record that mobile phone of the petitioner was ever used in any of the alleged transactions. Hence, the instant petition seeking concession of regular bail to the petitioner

3. Per contra, learned State counsel, referring to the reply submitted by the State, has submitted that the petitioner has participated in the incident/cyber crime, wherein, by opening fake accounts, the complainant had been cheated of amount of Rs. 46.00 lacs. However, on query, he has not disputed the fact that the petitioner is not found to be the beneficiary nor his mobile number has been used in such transactions. However, keeping in view the allegations, learned State counsel has prayed for dismissal of the bail petition.

4. After considering the rival contentions and perusing the record, it is observed that instant FIR was registered at the instance of one Ashok Kumar alleging that on receipt of someone's whats-app message to give 05 star rating on google map, the complainant had been cheated for an amount of Rs. 46.00 lacs which was transferred

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from two different accounts. Hence, the FIR in question was registered. During the course of investigation, the petitioner was arrested on 18.01.2024 and after completion of investigation, challan had been presented in the Court wherein the charges were framed. Admittedly, there is nothing on record as of now that the petitioner is in any manner beneficiary of all such transactions or any amount transferred in his account nor his mobile phone is stated to be used in any of such transactions. The role of the petitioner in the alleged crime is still debatable which can only be ascertained after the conclusion of trial in the present case triable by the Court of Magistrate and the petitioner is not having any other criminal case, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration till the conclusion of trial.

5. 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.

6. 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

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qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

7. 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.

8. Petition stands allowed.

(SANJIV BERRY)
JUDGE

22.10.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |