

**CRM-M-50080-2024 &
CRM-M-57253-2024**

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227 (2 cases)

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

**CRM-M-50080-2024
Date of Decision : 09.12.2024**

IMTIYAZ		-PETITIONER
	V/S	
STATE OF HARYANA		-RESPONDENT

CRM-M-57253-2024

AFTAB		-PETITIONER
	V/S	
STATE OF HARYANA		-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Saleem Ahmed, Advocate
for the petitioners.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Khushagra Beniwal, Advocate,
for the complainant.

KULDEEP TIWARI, J. (ORAL)

1. Since both the petitions are arising out of a common FIR, therefore, being amenable for common decision, same are taken up together.

2. Through the instant petitions cast under Section 483 of the BNSS, 2023 the petitioners pray for them being granted the concession of regular bail, in case FIR No.307, dated 10.08.2023, under Sections 406, 420, 506 and 120 of the IPC, registered at Police Station City Thanesar, District Kurukshetra.

3. The instant FIR was registered on a statement suffered by one Rohit Pandey. The relevant extract of the FIR reads as under:-

“.....I would like to draw your kind attention that I am Rohit Pandey S/o Yamuna Dutt Pandey Rio Kailash, belong to the city Kurukshetra, In July 2021 Aftab Khan and Intiaz Khan had come to my house situated in Kailash Nagar Kurukshetra. They asked me to become partners with them in trading apple mobiles and told me that they get Apple mobiles at cheaper prices than the market. I am already in the business of mobiles and I have a modest understanding of this work and I was satisfied with their talks. They showed me many apple mobiles on the spot, out of which the deal with respect to four phones was done on the spot. In these profit was accruing to me. It seemed from their behaviour that they are big businessmen. They had came to my house in a luxury car. which impressed me. Aftab Khan and Intiaz Khan told me that all their lot of apple mobile material comes from abroad. so their rates is less than the market. Intiaz Khan had studied in Kurukshetra University and had met me at paan shop in Sector 13. Since then I was acquainted with from the time he was studying in KU. He had told me about the phone deal and had introduced me to his brother whose name is Aftab. These two brothers made a deal with me to buy 100 sets of Apple Mobile 12 Pro for 91 thousand per set, the total amount of which was 91 lakh rupees, of which 44 lakh 50 thousand I had given them in advance, I paid these payments by collecting it from my relatives and my friends. I made all the payments in front of my friends Pankaj Arora and Neeraj at my house in Kailash Nagar Kurukshetra, the interest on which I am also paying, now I have gone in debt. Till today both these brothers could not give me mobiles. Several panchayats have also been held regarding this in which he also gave me a check but there was no money in that account. I still have that check and I have more evidence lying with me. Aftab Khan and his brother Imtiaz Khan have cheated me to the tune of Rs.44 lacs 50 thousand. Now when I ask them to return my money they even threaten to kill me and say that you have no idea of our reach. These two brothers have cheated me, strict action should be taken against them and my 44 lakh 50 thousand should be got returned along with interest. ...”

4. The learned counsel for the petitioners opt not to address any arguments on merits of the case, rather confines the sphere of his arguments only to the period of incarceration suffered by the petitioners, besides the stage of trial. He submit that, the trial is yet to begin as charges have yet not been framed, therefore, no fruitful purpose would be served by keeping the petitioners behind the bars, who have already suffered incarceration of about 5 months, as on today.

5. He further submits that both the petitioners are man of clean antecedents, as they are not involved in any other criminal cases.

6. He, in addition, submits that the offences for which the petitioners are facing trial are triable by a court of Judicial Magistrate Ist Class, therefore, their further incarceration is unwarranted.

7. He over and above submits that earlier the anticipatory bail petition filed by both the petitioners was dismissed by this Court, and thereupon the petitioners were arrested on 06.07.20224, and till then they are behind bars.

8. *Per contra*, the learned State counsel vociferously opposes the grant of regular bail to the petitioners, and has filed custody certificates *qua* the present petitioners, which reflect that the petitioners have suffered incarceration of 04 months and 26 days, as on today, and they are not involved in any other criminal case.

9. He, on instructions imparted to him by the official concerned, verifies that the challan was presented on dated 02.09.2024, and charges are yet to be framed. In the final report, the prosecution has cited total 13 prosecution witnesses.

10. Learned counsel for the complainant also opposed the asked for relief to the present petitioners on the ground that the petitioners have duped the complainant for an amount of Rs.44.50 lakhs, on account of supplying him 100 sets of mobile phone make Apple.

11. This Court has considered the rival submissions, as made by the learned counsels for the parties concerned, and perused the entire

record.

12. Be that as it may be, considering the fact that: **(i) as per the custody certificate, the petitioners has suffered incarceration of 04 months and 26 day, as on today; (ii) the petitioners are man of clean antecedents as they are not involved in any other criminal cases; (iii) the offences under which the petitioners are facing trial are triable by a court of Judicial Magistrate Ist Class; (iv) the trial is yet to begin as the charges are yet to be framed; (v) no fruitful purpose would be served by keeping the petitioner behind the bars,** this Court deems it appropriate to grant the concession of regular bail to the petitioners. Therefore, without commenting upon the merits and circumstances of the present case, the present petitions are **allowed**. The petitioners are ordered to be released on bail on furnishing of their respective bail bonds, with heavy surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

13. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

14. All pending application(s), if any, also stand **disposed** of accordingly.

15. A photocopy of this order be placed on the file of the connected case.

December 09, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No