

CRM-M-50623-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50623-2024
Reserved on: 11.11.2024
Pronounced on: 25.11.2024

Mohd. Aslam ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohan Singh Chauhan, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
02	01.02.2024	Cyber Crime, Ambala	419/420/406 IPC (Section 120-B IPC added later on)

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, seeking regular bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“That as a matter of fact, the case FIR bearing No 0002 dated 01.02.2024 was registered at PS Cyber Ambala (Haryana) u/s 406, 419, 420 IPC on the complaint of Shri Om Prakash Banmali, wherein, he had alleged that he was invited through Facebook to join WhatsApp group created by Shri Ashish Shah to understand and benefit from share trade by getting free training from financial experts. He alleged that he opened a trading account and downloaded an App named CHOICE through which trading and financial transactions were done and he transferred an amount of Rs. 34,05,000/- in the trading account. He alleged that he senses that the same is a sham trade and therefore submitted a complaint regarding the same based on which the present FIR was registered. The facts in detail have been mentioned in the FIR and the copy of the same has been annexed with the present petition by the accused-petitioner as Annexure P-1/T,

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hence not repeated for the sake of brevity. ”

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:

“18. That so far as the role of accused-petitioner is concerned, the accused- petitioner in connivance with other accused persons specifically Anwartheen has cheated the Complainant (to the tune of Rs. 51,60,600/-). Moreover, accused-petitioner has not returned the money to the Complainant. Further, it is worthwhile to mention here that in compliance of the order of this Hon'ble Court, the IO in the present matter moved an application before the DSP, Central Jail, Ambala for obtaining the custody certificate of the accused-petitioner. However, it is submitted that period of custody is no ground for concession to grant bail to the accused-petitioner. However, the Custody certificate of the accused-petitioner is annexed herewith as Annexure R-6 for the kind perusal of this Hon'ble Court.

19. That furthermore, it is submitted that the IO in the present matter, during investigation has obtained/collected the WhatsApp Chat (with mobile no. 88383-30792) made between the accused-petitioner and co-accused Anwartheen (total of 9 pages) showing many financial transactions done between him and co-accused Anwartheen. For the kind perusal of this Hon'ble Court, the screenshot of WhatsApp Chat between accused- petitioner and co-accused Anwartheen is annexed herewith as Annexure R-7. Also, it is submitted that as per record, it has been found that the online transactions of IP (2401:4900:6279:2933:9 POWER0306.ANVARTHE 28d:499b:9069:dd81), was used via internet of mobile no. 88383-30792 (found to be in the name of accused-petitioner) in the bank account no. 407200930235 IFSC RATN0000306 (in the name of co-accused, Anwartheen) thus, the accused-petitioner's mobile IP address was found involved in the online financial transactions done from the UPI ID of co- accused Anwartheen on various dates. For the kind perusal of this Hon'ble Court, the copy of details of IP address and CAF of mobile no. of the accused-petitioner is attached herewith as Annexures R-8 and R-9.

20. That further, it is involved in the serious and heinous crime of cheating a huge amount of Rs. 51,60,000/- (Rs. 34,05,000/-from Complainant's

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bank account and Rs. 17,55,000/-from Complainant's wife's bank account were got transferred to the bank account of accused-petitioner and other co- accused persons) with the Complainant and if he is released on bail, he may tamper with the prosecution evidence, may flee from legal punishment or may abscond, hence the present petition is liable to be dismissed.”

7. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 8 of the bail petition, the petitioner has been in custody since 22.03.2024. Per the custody certificate dated 10.11.2024, the petitioner’s total custody in this FIR is 07 months & 09 days. 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 further pre-trial incarceration at this stage.
8. The petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.
9. 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.
10. 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.
11. 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)	

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. This bail is conditional, and the foundational condition is that if the petitioner

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indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

15. 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.

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

(ANOOP CHITKARA)
JUDGE

25.11.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.