2024:PHHC:098236

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.64009 of 2023 (O&M)
Date of decision: 01.08.2024

Mukim Khan

....Petitioner

Versus

State of U.T., Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Manish Bansal, P.P., U.T., Chandigarh
with Mr. Shubham Mangla, Advocate
and Mr. Shaurya Nagpal, Advocate
assisted by SI Gurmeet Singh.

NAMIT KUMAR J. (Oral)

1. Prayer in this 3rd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.12 dated 23.07.2022, registered under Sections 419, 420, 120-B, 467, 468 and 471 IPC at Police Station Cyber Crime, Chandigarh.

2. Learned counsel for the petitioner submits that as per the allegations in the FIR, on 23.07.2022, the complainant Jai Narayan Tiwari had moved a complaint before Police Station Cyber Crime, Sector 17, Chandigarh, alleging that somebody with WhatsApp mobile No.+91 8987019617, having profile picture of DGP, U.T., Chandigarh, had sent a message to him seeking urgent financial help on the pretext

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that he did not have his cards with him and Axis Bank Account No.922010025198108 was provided to him. The complainant transferred the amount of Rs.20,000/- from his HDFC Account No.50100027687041 and subsequently, he found that the said request was not received from DGP, Chandigarh and rather it was a scam and thus, the impugned FIR was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the petitioner is in custody for the last 01 year, 11 months and 27 days.

4. Learned counsel for the petitioner further submits that the investigation in the present case is complete as challan stands presented; charges have been framed and out of total 14 prosecution witnesses, only 02 PWs have been examined so far and the next date of haring, fixed before the learned trial Court is 16.08.2024 and the trial is likely to take considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

5. Per contra, learned State counsel has filed custody certificate dated 31.07.2024 today in the Court, and has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner is also involved in another FIR no.2 dated 27.02.2021 registered under Sections 66-C and 66-D of the Information Technology Act and Section 420 IPC at Police Station Cyber Crime, Police Station

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Karnal Range, Karnal and, therefore, he does not deserve the concession of regular bail.

6. Refuting the above contention of the learned State counsel, learned counsel for the petitioner submits that the petitioner is on bail in the said FIR No.02 dated 27.02.2021. He further relies upon the judgment of Hon'ble Supreme Court in ***"Maulana Mohd. Amir Rashadi Vs. State of U.P. and another"*, 2012 (2) SCC 382**, to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

> *"As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."*

7. I have heard learned counsel for the parties and perused the record.

8. Without commenting anything on merits of the case and considering the fact that the petitioner is in custody for the last 01 year 11 months and 27 days; investigation is complete; challan stands presented; charges have been framed and out of 14 PWs, only 02 PWs have bee examined so far and the trial is likely to take considerable time to conclude, this petition is allowed and the petitioner is directed

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to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.

(vi) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be

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at liberty to move an application for cancellation of bail of the petitioner.

(NAMIT KUMAR)
JUDGE

01.08.2024
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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