2025:PHHC:038537

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

**CRM-M-14195-2025**
**DECIDED ON: 20.03.2025**

**SIDDHRTH SINGH @ SIDARTH SINGH**

**.....PETITIONER**

**VERSUS**

**STATE OF PUNJAB**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.**

Present: Mr. D.K. Singhal, Advocate
for the petitioner.

**SANDEEP MOUDGIL, J (ORAL)**

**1. Prayer**

The jurisdiction of this Court under Section 439 Cr.P.C. (Now Section 482 BNSS, 2023) has been invoked 2nd time seeking regular bail to the petitioner in FIR No. 425, dated 27.12.2023, under Sections 420, 467, 468, 471 and 120-B IPC, registered at Police Station Tripuri, Patiala.

***2. Facts***

As per the contents of the FIR, the present case has been registered against the applicant-accused at the instance of the complainant Harshdeep Sharma s/o Ram Sharma by moving complaint to the SSP Patiala. He has stated that he is Software Engineer by profession. He has stated that Axis Bank has issued Credit Card without his consent, regarding which he informed on the customer care number of the said bank that he does not require the Credit Card, rather he requires a Premium Magnus Credit Card. Then he received a call from mobile number +1(860) 419-5555 from some person, who stated that he is employee of said bank and he was having prior information about his credit card and account. The said person stated that has been given offer for issuing Premium credit card without any expenses and he trusted the said person. Then he again called at customer care number of Axis bank, who informed that mobile number 18604195555 is of their Special Credit Card department and the new card will be issued to him in place of his old credit card, without any joining fee. Then he received call from mobile number +1(860) 419-5555 and he was asked to activate credit card No.4641180023389213 and as such, he activated the said credit card. The the person calling from said number stated that he has got pre-approved loan offer on his account No.917010043996223, on the basis of which he will be issued Premium credit card and amount of Rs.9 lacs will be credited in his account and then immediately get reversed. Then amount of Rs.9 lacs got credited in his account on 25.11.2023 and also debited on the same date through two transactions of Rs.5 lacs and Rs.4 lacs. On 29.11.2023 he also received e-mail from Axis bank that there will no joining fee on his credit card. Then he again received call from mobile number +1(860) 419-5555 and on 29.11.2023 amount of Rs.8,98,369/- got credited in his account and the said amount also got debited vide two transactions of Rs.5 lacs and Rs.,376,500/-. Then he again received call from mobile +1(860) 419-5555 that his file is pending and for completing the same, again credit and debit transactions will be done in his account. Thereafter, amount of Rs.5 lacs was debited from his account. The complainant had further stated that on 13.11.2023 some unknown person has activated net banking on his said account number, regarding which he had no information. Thus fraud has been committed with him by the person of mobile number +1(860) 419-5555. He has further prayed for taking action against the accused person(s).

3. **<u>Contentions</u>**

**<u>On behalf of the petitioner</u>**

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case. It is argued that the petitioner’s friend, Shubh Jaiswal, approached him stating that he was in urgent need of money and did not have an account with HDFC Bank. Shubh Jaiswal informed the petitioner that his other friend was sending an amount of Rs. 9 lakhs via HDFC Bank, but due to two upcoming public holidays, he requested the petitioner to help by facilitating the transaction. Consequently, the petitioner provided his bank details for the transfer. Upon receiving the Rs. 9 lakhs, the petitioner transferred Rs. 8 lakhs to Shubh Jaiswal and gave him Rs. 1 lakh in cash.

Counsel asserts that the petitioner was merely assisting his friend and had no involvement in any criminal activity. He has no connection with the case and has been wrongfully implicated.

Notice of motion.

**<u>On behalf of the State</u>**

At the asking of this Court, Mr. J.S. Rattu, DAG, Punjab appearing on advance notice, accepts notice on behalf of respondent-State and has filed the custody certificate of the petitioner, which is taken on record. Whereas, Mr. Karunesh Verma, Advocate has put in appearance on behalf of respondent-Complainant and filed his power of attorney, which is taken on record.

Learned State counsel assisted by learned counsel for the complainant have prayed for dismissal of the present petition stating that there is specific allegation against the petitioner that an amount of Rs.9 lacs was transferred in the bank account of the petitioner, which is sufficient for this Court to infer that the petitioner has actively participated in commissioning of offence.

***4. Analysis***

Considering that the petitioner has already undergone a period of custody of 6 months and 22 days, and is a person of clean antecedents, along with the facts that the entire case is based on documentary evidence, which is already available with the investigating agency; challan stands presented on 18.11.2024 wherein prosecution has cited 13 witnesses, and charges are yet to be framed meaning thereby, conclusion of the trial is likely to take considerable time, therefore, continuing to detain the petitioner for an indefinite period would serve no meaningful purpose.

Furthermore, in accordance with the principles of criminal jurisprudence, a person is presumed innocent until his guilty is proved beyond a reasonable doubt.

Reliance can be placed upon the judgment of the Apex Court rendered in "***Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131***, wherein it has been held that the grant of bail is a general rule and putting persons in jail or in prison or in correction home is an exception. Relevant paras of the said judgment is reproduced as under:-

> *"2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or*

*in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.*

*3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.*

*4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting section 436A in the Code of Criminal Procedure, 1973.*

*5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons, 2017(4) RCR (Criminal) 416: 2017(5) Recent Apex Judgments (R.A.J.) 408 : (2017) 10 SCC 658*

*6. The historical background of the provision for bail has been elaborately and lucidly explained in a recent decision delivered in Nikesh Tara chand Shah v. Union of India, 2017 (13) SCALE 609 going back to the days of the Magna Carta. In that decision, reference was made to Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 in which it is observed that it was held way back in Nagendra v. King-Emperor, AIR 1924 Calcutta 476 that bail is not to be withheld as a punishment. Reference was also made to Emperor v. Hutchinson, AIR 1931 Allahabad 356 wherein it was observed that grant of bail is the rule and refusal is the exception. The provision for bail is therefore age-old and the liberal interpretation to the provision for bail is almost a century old, going back to colonial days.*

*7. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory."*

Therefore, to elucidate further, this Court is conscious of the fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as is the mandate of the Apex court in "***Hussainara Khatoon and ors (IV) v. Home Secretary, State of Bihar, Patna", (1980) 1 SCC 98.*** Besides this, reference can be drawn upon that pre-conviction period of the under-trials should be as short as possible keeping in view the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

5. **Relief:**

In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

The petition in the aforesaid terms stands allowed.

**(SANDEEP MOUDGIL)**
**JUDGE**

**20.03.2025**
*sham/anuradha*

*Whether speaking/reasoned : Yes/No*
*Whether reportable : Yes/No*