



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18460-2025
DECIDED ON: 09.04.2025

VIJAY MEHWAL

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked for the second time under Section 483 Of BNSS 2023 seeking grant of regular bail to the petitioner in case FIR No. 56 Dated 22.05.2024 Under Sections 420, 120-B of IPC and Section 66 (D) of the Information Technology Act, registered at Police Station Sarabha Nagar, Ludhiana, Distt. Ludhiana (Annexure P-1).

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“One application bearing P.G.D. No. 354200/System Id. 353654 dated 22-05-2024 from Dr. Renuka Goyal W/o Dr. Dheeraj Goyal Resident of House No. 680, Model Town Face-1 Bathinda, has been received in the police station; the subject of which is as under: - To, the Hon'ble Commissioner of Police, Ludhiana. Subject: - Regarding cheating through online Telegram by creating groups. Sir, I am a doctor by profession and working

in a government hospital at Bathinda. My mobile number is 8283961936 and a telegram account is running. But I am often chatting. She visited her relatives at Agar Nagar, Ludhiana on 21-05-2024. I received a message from a woman namely Sanvi came on my telegram, on which we started chatting. According to the chat with Sanvi and Ananya, I have. Transferred a sum of Rs. 80 Lacs from my SBI Account No. 0038573254349 and PNB Bank Account No. 07302191021691 on different dates before 21.05.2024, whose bank statements are annexed herewith. On 21.05.2024 I asked Sanvi to refund my payment, she told me that you should deposit 60 lakh rupees more to withdraw the previous amount, we will refund your entire amount immediately. I got into their talk and I transferred Rs. 56 lakh 60 thousand from my account to the Account No. 409002268669 of R.B.L. Bank,. Branch Tank Road, Jaipur which is in the name of Vijay Medical General Store whose IFC Code RATND is 0000367 and asked to refund my full amount, who again asked me to transfer another 40 lakh rupees so that you can be our VIP. You will come to level 3 and will be able to take your entire payment. On which I got suspicious and did not transfer any more amount and kept asking to refund my full amount. But they did not refund my money. Sanvi and Ananya fraudulently transferred about 01 crore 40 lakh rupees to different accounts on different dates through Telegram chatting with the hope of giving me more profit and now they are not returning the amount I have given. So please take legal action against them and give me justice. Attached: Telegram Chatting.”

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner was not named in the instant FIR, which has been filed against Sanvi and Ananya, with whom the complainant had a conversation on Telegram, who

allegedly persuaded the complainant to invest money on the said platform. He further contends that the petitioner neither influenced the complainant nor engaged in any fraudulent activity, therefore, no offence under Section 420 IPC is made out against the petitioner. It has been submitted that the petitioner himself is a victim of cheating at the hands of his friend namely Amit Kumar (co-accused), who cheated the petitioner by using his Bank Account in the alleged crime. It has been contended on behalf of the petitioner that he is a man of clean antecedents as he is not involved in any other case.

On behalf of the State

On the other hand, learned State counsel has produced the custody certificate of the petitioner today in Court, which is taken on record. He seeks dismissal of the instant petition on the ground that the petitioner in connivance with other co-accused persons had induced complainant to invest money on Telegram and cheated her for sum of Rs.1.4 crores. He further contends that the account in which the alleged amount was credited, is in the name of the present petitioner.

4. Analysis

Be that as it may, considering the custody period i.e. 10 months and 10 days for which the petitioner has suffered incarceration; the petitioner was not named in the instant FIR, which has been filed against Sanvi and Ananya, with whom the complainant had a conversation on Telegram, who allegedly persuaded the complainant to invest money on the said platform; the petitioner neither influenced the complainant nor engaged in any fraudulent activity, therefore, no offence under Section 420 IPC is made out against the petitioner and the fact that petitioner himself is a victim of

cheating at the hands of his friend namely Amit Kumar (co-accused), who cheated the petitioner by using his Bank Account in the alleged crime.

Also considering the fact that the petitioner is not a habitual offender as he is not involved in any other case, as is evident from custody certificate in addition to the fact that investigation is complete, challan stands presented to Court on 23.07.2024, charges have been framed on 28.02.2025 and out of total 08 prosecution witnesses none has been examined so far, which is suffice for this Court to infer that the conclusion of trial will take long time for which the petitioner cannot be detained behind the bars for an indefinite period.

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 basic and 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 discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on him furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

In the afore-said terms, the present petition is hereby allowed.

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

09.04.2025

Poonam Negi

**(SANDEEP MOUDGIL)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*