



CRM-M-51447-2024 (O&M)

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

(128)

CRM-M-51447-2024 (O&M)

Date of Decision : 10.01.2025

Devender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sunil Sihag, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Aman Kumar, Advocate for
Mr. Harsh Chopra, Advocate
for Asset Reconstruction Company.

KULDEEP TIWARI, J.(Oral)**CRM-49970-2024**

Application for preponement of hearing of the case is allowed, for the good and valid reasons assigned therein. Main case is preponed from 19.02.2025 to and is taken on the board today itself.

Main Case

1. Through the instant petition filed under Section 483 of BNSS, 2023, the petitioner prays for grant of regular bail in case FIR No.194 dated 31.08.2023 under Sections 409, 420, 467, 468, 471 and 120-B of the IPC, 1860, registered at Police Station Civil Line, District Gurugram.
2. The brief facts which have been culled out by the learned trial Court, while declining the relief of regular bail are extracted hereinafter :-



“7. In view of above discussion, prima facie it does not seem a simple case of cheating by a single person with a single person but a strong network to commit cheating in an organized sophisticated manner to earn money by selling non-existent flat on papers only and raising loans from the institutions and it cracked on the complaint of present complainant. This contention of applicant/accused that matter has been compromised now and all money has been returned to concerned quarters is no ground to grant bail. In similar, nature of cases FIR No. 222 dated 15.07.2023, quashing petition is also pending before the Hon'ble High Court, Chandigarh as per the own version of applicant/accused. In the considered opinion of the court the allegations against the applicant/accused are of serious nature. Firstly, cheat common man by got investing his hard money in so called flats (dream house of middle class, who also raised loan from financial institution) and then use his money for his personal gains and thereafter settle the matter when criminal case is registered. The flat in question has been sold thrice.

8 After giving thoughtful consideration on rival contentions, all attending circumstances of the case, committing the manner and severity of the punishment, the present bail application is hereby dismissed. Copy of order be sent to learned trial court. File be consigned to the record room after concerned immediately.”

3. Though the petitioner has raised number of issues. However, his main thrust seeking the relief asked for is that he has already returned the amount to the victim(s) as well as to the bank and the other finance company. On dated 18.10.2024, this Court, had passed the hereinafter extracted order :-

“Notice in the application to the non-applicants/respondents, for 09.01.2025.



The respondent-State of Haryana, is directed to file fresh status report, on or before the next date of hearing, disclosing therein, as to whether, the petitioner and the other accused persons has deposited the entire loan amount of the HDFC Bank, as well as other financial companies, or not.”

4. In compliance to the directions (supra), status report dated 07.01.2025, by way of affidavit of Mr. Abhimanyu, HPS, Assistant Commissioner of Police. EOW-I and II, Gurugram, has been filed on dated 09.01.2025, in the Court, and the same is taken on the record.

5. Perusal of the status report (supra), reflects that the petitioner and the co-accused has deposited the amount, outstanding in the loan account of the complainant and the other victim(s), in the HDFC Bank, as well as Edelweiss Asset Reconstruction Company. The relevant extract of the status report (supra), reads as under :-

5. That it is pertinent to mention here that the HDFC Bank, in its above mentioned reply, has also mentioned about two other loan accounts no. 586862415 and 609707422 of the complainants, however, the said loan accounts are different and have nothing to do with the present matter.

6. That the Edelweiss Asset Reconstruction company, in its reply dated 02.01.2025, mentioned that Vishal Dhar (borrower), Udhayan Challu and Vikas Dhar (co-borrowers) had availed loan facility from Dewan Housing Finance Ltd. vide loan account no. 1244551. The said lender had sanctioned the amount of Rs. 2,23,00,000/- and subsequently disbursed the amount of Rs. 2,10,00,000/-. Later on, in accordance with Section 5 of Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, the original lender had assigned/transferred the said loan account



along with the underlying security therein to Edelweiss Asset Reconstruction Company on 04.10.2019. The said company has further stated that the builder i.e. Maxworth Infrastructure Pvt. Ltd. through its Directors have paid the entire settlement amount, regarding which a no dues certificate dated 31.12.2024 has also been issued. Pursuant to issuance of no dues certificate dated 31.12.2024, the said loan account no. 1244551 stands settled and closed in the books of Edelweiss Asset Reconstruction Company. The copy of reply of Edelweiss Asset Reconstruction Company is attached herewith as Annexure R-2 for kind perusal of this Hon'ble Court. The said institution also provided the copies of Settlement of Loan Account letter dated 26.09.2024 and the No Dues Certificate dated 31.12.2024, which are attached herewith as Annexure R-3 and Annexure R-4 for kind perusal of this Hon'ble Court.

7. That from the above averments, it has come forth that the petitioner and his co-accused have deposited the outstanding amounts in the loan accounts of the complainants and other victims in HDFC Bank as well as in Edelweiss Asset Reconstruction Company.

6. Although in the reply (supra), it is also mentioned that the investigating agency is still not aware as to whether on the basis of the non-existing property, mentioned in the FIR, whether the petitioner has availed any other loan or not.

7. Faced with the above difficulty, learned counsel for the petitioner submits that the petitioner is ready and willing to sworn an affidavit, in case adequate opportunity is granted to him, to the effect that he has not sold this property, which is mentioned in the FIR (supra), to any other persons, and no other loan except which is mentioned in the FIR, has been



created on this non-existent property. He further submits that the petitioner is behind the bars since 17.08.2024, and the offences, in which he is facing a trial, are triable by the Judicial Magistrate, and as on date, the investigation has already been complete qua the present petitioner and some of the other accused. However, the investigation is yet to attain finality.

8. On the other hand, learned State counsel, on instructions imparted to him from the quarter concerned has opposed the relief asked for. Though he admits the fact that the petitioner and the other co-accused has deposited the amount with the Bank and the Asset Reconstruction Company and has also settled the issue with the victim(s) mentioned in the FIR. However, the petitioner is a habitual offender and he is involved in three other cases. He further submits that there is one more case which has been registered against the present petitioner in similar like act/offence.

9. Learned State counsel has also placed on record the custody certificate dated 08.01.2025, today in the Court. The same is taken on the record. The custody certificate reflects that the petitioner has suffered incarceration of 04 months and 19 days, as on today.

10. Be that as it may, considering the fact that all the disputed amount pertaining to the instant FIR, has been returned by the petitioner and the other co-accused; petitioner has suffered incarceration of more than 04 months, as on today, and the trial is yet to begin, which is triable by the Judicial Magistrate, therefore, further incarceration of the petitioner is not warranted at all, at this stage. Accordingly, the instant petition is **allowed**.

11. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/trial Court/Duty Magistrate, concerned.



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12. It is made clear that the petitioner after release from the custody, is required to sworn an affidavit to the effect that the petitioner has not sold this property, which is mentioned in the FIR, to any other persons, and no other loan except which is mentioned in the FIR, has been created on this non-existent property

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

(KULDEEP TIWARI)
JUDGE

January 10, 2025
Manpreet

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