

2025:PHHC:001198



218-3

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53979-2024
DECIDED ON: 08.01.2025

SANDEEP SAI

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

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

Mr. Chetan Sharma, DAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.16 dated 02.05.2024, under Sections 120-B, 419, 420, 467, 468, 471, 506 of IPC, 1860 registered at Police Station Cyber Crime, Kaithal, District Kaithal, Haryana (Annexure P-1).

2. Facts

Facts as narrated in the FIR reads as under:-

“At present, a complaint number 88-NCRP dated 04.03.24 has been received after Investigation from the office of Superintendent of Police, Kaithal, through post at Police Station, the gist of which is as follows: - To, SHO, Police Station Cyber Crime, Kaithal. Subject: Complaint regarding extortion of money fraudulently against: Monica WhatsApp No.8277073522, 1.Rohit Mob. No. 8967791015 and 8126674803 employees, Coin DXC Company. Sir, it is submitted

that I am Gurdev Singh, son of late. Richpal Singh, resident of Ward 5 Khurana Road Police Station City Police Station Kaithal, District Kaithal and am unemployed. I filed a complaint no. 21303240007904 dated 03.03.24 on NCRP portal in which due to lack of complete details, I am separately giving full details regarding the above complaint that, on 25.01.24, through an ad of work at home on Instagram, I met a girl named Monica, who gave a WhatsApp number 8277073522, on which I messaged from WhatsApp number 9812922718, then I got a message from Radhika in which it was written to talk to Coin DCX Exchange Digital Marketing Company Pvt. Ltd. India. When I chatted with Radhika, she offered me work from home in which I would have to complete some tasks from home, for which she gave me a link of Telegram. When I clicked on the link, I started talking to @moniksing666 on Telegram where a girl named Monica told me about the money investing scheme and initially got me to complete the task of investing Rs. 1000/- on 26.01.24. Which I transferred from my account number 78830100021056 of Bank of Baroda branch Ambala Road Kaithal through UPI Google Pay to UP ID pawankumar012474@okicici. In which I got a profit of Rs. 300/- and my amount became Rs1300/-. After that on 27.01.24, I invested Rs.7,000/- which I transferred from my Google Pay to UPI ID deeprajkaindia@oksbi. In this way I made a total of 3 other transactions of Rs.28,600/- UPI ID OKYBBY@YBL, 50,000/- 10,000/- to UPI ID R39621169@OKSBI. In which I was shown total profit of Rs. 1,25,000/-. On 29.01.24, I had a chat with Sandeep Singh's telegram group @Sandeep0966 in which a total of four transactions were made from me Rs.3,000/- UPI ID: 9111778791@YBL, Rs.10,000/- UPI ID: DEEPAKNAGRAJO7-1@OKAXIS, Rs.10,000/- and Rs.5,000/- UPI ID : Transferred to PAVAN2221@YBL. On 30.01.24, Rohit I received a call from 8967791015 from Rohit of Coin DCX who made me to join the Telegram group Coin DCX Customer Service where many members were active and trading in Bitcoin. Rohit persuaded me to invest in Bitcoin and on 30.01.24, on the saying of Rohit, I deposited Rs.2,39,140/- through RTGS from my wife Neetu's account number 78830100021458 Bank of Baroda, Ambala Road Kaithal, to the account number 15370100203769 IFSC code. : FDRL0001537, deposited in Federal Bank of India account holder Mohammad Suhaib. After this my total profit became Rs.4,78,280/-. Then on 31.01.24, I withdrew a total of Rs.70,000/- (50,00020,000) from my above account number 1520391048796 IFSC code: JOP0000001, Jio Payment Bank and on 01.02.24 Rs.50,000/- from my wife's above account number 15203391053253 IFSC code: JIOP0000001, deposited in Jio Payment Bank. When I tried to withdraw the said amount on 02.02.24, they canceled it by showing me the message credit score is less than 100 points. Then Rohit told me that your credit score is 40 points, which you will have to increase to 100 points and you will have to purchase 60 points

for which you will have to deposit another Rs.3,60,000/-, which will later be returned to you along with the profit he also sent me a CoinDCX letter on Telegram. On 03.02.24 also the same letter was sent to me by a CoinDCX on Telegram. Then I deposited a total of Rs.3,60,000/- from 03.02.24 to 06.02.24 (60,000/- UPI ID: GAFUR.8@PAYTM, 40,000/- UPI ID: SHAIKHIRFANABI533@OKAXIS, 60,000/- UPI ID: SAIF1646@NSDL, 40,000/- 10,000/- UPI ID: SUJOY232@NSDL. After that, when I wanted to withdraw the money, I clicked on their link and was given a notification which showed Exceeded The Tax Exemption Limit and told that you have done different transactions, due to which you have come under the tax net and you will have to clear the issue of tax exemption for which you will have to deposit a total of Rs.2,51,484/- which will later be returned to you. That on 08.02.24 from my above account number 67027065960 IFSC code SBIN0070422, deposited through RTGS in SBI bank account holder Arshad A. After that he told me that while filling the form in RTGS, you did not enter the tax details in the remarks due to which the above amount was deposited in your beneficiary account and your profit became Rs. 10,89,764/-. Therefore, you will have to deposit 30% of the entire amount, totaling Rs.2,94,236/-, only then you can get your money back. Which I deposited a total of Rs.294236/- through RTGS in the name of tax exemption from the above account given by him in the account number 10770100312228 IFSC code: FDRL0001077, Federal Bank of India account holder Mohammad Irshad KT. Now my total profit amount is shown as Rs.13,84,000/-. When I tried to withdraw the above amount, it was not withdrawn and a notification came which said that your Rs.2,51,484/- has not been deducted in tax. After that the above persons gave me a new task under a scheme and asked me to trade in it, after which my total amount was shown as Rs. 16,85,780/-. In which I was asked to deposit a total profit commission of Rs.2,11,246/-, so I deposited a total of Rs.2,11,246/- on 12.02.24 from my account and my wife's account (25,000/-account number 16300100116512 IFSC code: FDRL0001630, IMPS IN FEDERAL BANK OF INDIA ACCOUNT HOLDER JAY KRISHNAN, * 50,000/ - 7 50,000/ - z 18,000/- UPI TO UPIID : SANDEEPSAJAAT4-1@OKICICI, * 18,246/- UPI TO UPI ID : ROHITASHTHE@KOTAK, * 50,000/- UPI (UPI ID: POONAM4428@PAYTM). When I again wanted to withdraw the above amount, they again made excuses and asked me to deposit the money, then I understood the above fraud and I refused to deposit the money and the total amount deposited by me was Rs. 15,99,706/-. When I asked to return the money, I received calls from Rohit from mobile number 8967791015 and 8126674803 and he started threatening me to deposit the money and when I threatened legal action, he also threatened to kill me and on the contrary, started threatening me for legal action against me. All

the above mentioned persons, under a scheme among themselves, have cheated me by luring me with false benefits and getting me to invest in the name of CoinDCX, by sending fake letters, by showing fake profits, and have embezzled my money. Legal action should be taken against the above mentioned persons and my money should be returned. Details of the bank, screenshots of the transaction and the fake letter are attached. SD Applicant Gurdev Singh S/o Late. Richpal Singh resident of Ward 5 Khurana Road, Kaithal. Dated 04.03.24 On receipt of complaint received in Police Station, Case No.16 dated 02.05.2024 Section 419, 420, 467, 468, 471, 120B, 506 IPC Cyber Crime Police Station Kaithal was registered and the copy was sent to police and original complaint for further investigation to ASI Ravindra Kumar No. 13/ Kaithal in his Took charge. The first information report was recorded in the presence of ASI Ravindra Kumar No. 13/Kaithal. The special report of the case will be sent to higher officials through email and post ”

3. Contentions:

On behalf of the petitioner

Learned counsel for the petitioner would submit that the investigation is complete and thereafter charges stands framed on 23.12.2024 with 10 prosecution witnesses to be examined. In addition to, he would argue that the role attributed to the petitioner is that his account was used to withdraw the whole amount, which was handed over to Rohit out of which, the commission of Rs.5,000/- was earned by the petitioner. He further submits that the complainant has already been entered into a compromise with the main accused.

On behalf of the State

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He does not controvert the fact that the compromise has been arrived at between the complainant and main accused.

4. Analysis

Be that as it may, considering the fact that the petitioner has already suffered incarceration of 6 months and 22 days and not involved in any other case,

as is evident from the perusal of the custody certificate, meaning thereby he is a person of clean antecedents and the complainant has already settled the matter with the main accused namely Rohit, who has been granted the concession of bail by this Court vide order of the even date passed in CRM-M-38310-2024 added with the fact that investigation is complete, challan stands presented on 12.09.2024, charges stand framed on 23.12.2024 and out of total 10 prosecution witnesses none have been examined yet, meaning thereby conclusion of trial shall take considerable time, no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period, which would curtail right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131***. 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. **DECISION:**

In view of the discussions made hereinabove, the petitioner is hereby directed to be released on regular bail on 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.

(SANDEEP MOUDGIL)
JUDGE

08.01.2025

Meenu

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