
(2019) 02 P&H CK 0155

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 42555, 48324 Of 2018 (O&M)

Sher Khan

APPELLANT

Vs

U.T., Chandigarh

RESPONDENT

Date of Decision : 20-02-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 408, 420, 467, 468, 471
Information Technology Act, 2000 — Section 66(c), 66(D)

Citation : (2019) 02 P&H CK 0155

Hon'ble Judges : Mahabir Singh Sindhu, J

Bench : Single Bench

Advocate : Preetinder S. Ahluwalia, Rajeev Anand, Sudhir Sharma, Sunny Bhardwaj

Final Decision : Allowed

Judgement

Mahabir Singh Sindhu, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') for grant of bail, pending trial, to the petitioner in case FIR No.144 dated 09.05.2018 (P-1), under Sections 408, 420, 467, 468 & 471 of the Indian Penal Code, 1860; Sections 66(C) & 66 (D) of the Information Technology Act, 2000, registered at Police Station Sector 19, Chandigarh.

As per the allegations in the FIR, which was registered on the basis of statement of complainant-Ramesh Kumar Manchanda that he along with his son was running the business of Mobile Phones under the name and style of M/s Sai Enterprises, SCO No.20, 2nd Floor, Sector 21-C, Chandigarh, having Distributorship of Samsung Mobiles and used to supply the same to various Dealers. Their entire business transactions were used to be managed by their Accountant-cum-Manager-Deepak Goyal. He used to supply the mobiles to all the Dealers in addition to giving bills, recovery of payments and maintenance of accounts of the business. Further alleged that after dis-continuation of their

Distributorship, they tried to recover the payments from the Dealers, which was more than ` 80 Lakhs, but few of them refused to make the payments on the ground that they have already settled their account with Deepak Goyal. On verification of the stocks as well as books of accounts, it came to knowledge that there is lot of variation as the Credit Notes were not matching. Consequently, said Deepak Goyal was asked to explain the factual position and in response thereto, he promised to make the losses good after borrowing from his relatives as well as by selling his house. The modus operandi of said Deepak Goyal in active connivance with various Dealers was to create false, fabricated bills/entries, fake credit notes/ledger accounts of the complainant and thus, caused wrongful loss and fabricated the ledger accounts by giving undue benefits to the Dealers and caused a loss of approximately ` 1.5 Crores.

It is contended on behalf of the petitioner that he is only a Salesman; he is in custody since 09.07.2018; investigation in the matter has already been completed; charges were framed on 17.09.2018 and the case is triable by the Magistrate. Also contends that out of total 42 prosecution witnesses, none has been examined till date.

The above factual position is duly acknowledged by learned Counsel, appearing on behalf of the UT, Chandigarh and opposed the bail on the ground that there is sufficient material on record to connect the petitioner with the commission of crime.

There is no dispute that present case is triable by the Magistrate and petitioner is in custody since 09.07.2018. Although there are allegations of criminal breach of trust, cheating and forgery against the petitioner as well, but the same are to be proved during trial. Admittedly, there is no other criminal case pending against the petitioner. Also, there is no allegation that in case the petitioner is released on bail, then he is likely to hamper the trial in any manner. Thus, further custody of the petitioner pending trial will not serve any purpose.

In view of the abovesaid circumstances, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner be admitted to bail in the present case on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.