

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35372-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Ashin Khan ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Mamli, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
12	19.05.2024	Cyber Crime, District Charkhi Dadri	120-B, 420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. In paragraph 17 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That facts in the present matter in succinct are that a case FIR No.12 dated 19.05.2024 under sections 420, 120B IPC Police Station Cyber Crime, Charkhi Dadri was registered on the written complaint submitted by Abhishek son of Rakesh, resident of village Jewali, District Charkhi Dadri stating therein that he is working as labourer. Last year, in the month of September 2023, Ashin son of Amir Khan, resident of village Bhandwa, District Charkhi Dadri (present petitioner) had approached him to get him personal loan. He had assured to get the loan sanctioned. After 2/3 days, he got a telephonic call from Ashin to come to the house of one Vikram son of Puran resident of village Lad along-with Adhar Card, Pan Card and cheque book of his Indusind Bank account. Upon this he reached at the

house of Vikram where Ashin got his signatures on some papers and Vikram took his photo from his phone and photocopies of Aadhar-Card and Pan-Card along with his signatures. One cheque was also taken from his cheque-book. Ashin told that he is depositing some rupees in his Indusind bank- account, which will automatically be withdrawn/deducted. Thereafter, he returned to his house and Ashin telephonically called him to come at Badhra. When he reached at Badhra, Ashin along with Naveen, resident of village Bhandwa, met him there. They both brought him to Badhra Court and obtained his signatures on some documents on the pretext of getting the loan sanctioned. They then took him to Grain Market Badhra and obtained his signatures on 3-4 papers and also took OTP number as come on his mobile phone No.xxxx8531. Few days thereafter, Ashin again telephonically called him to come at Badhra. When he reached at Badhra, Ashin and Naveen met him in a car wherein one bank employee, namely, Jitender, was also sitting. They took him in the car to bus stand of village Lad and where they took his photos and got his signatures on some documents and noted the OTP from his mobile phone. After some more days, Ashin telephonically called him to give a call to Naveen. Upon calling Naveen, he asked the complainant to come at Badhra. When he reached at Badhra, Naveen took him to HDFC Bank Badhra. His signatures were obtained on some papers in the Bank and Ashin telephonically assured him that his loan would be sanctioned. Thereafter, in the month February 2024, Naveen telephonically called him to come to his house. When he reached there, Naveen and bank employee Jitender were present there, who got photos of his Aadhar-Card, Pan-Card and got his signatures on some papers. A few days later, Ashin telephonically called again to reach at IDFC Bank, Charkhi Dadri. After reaching Dadri, Ashin gave him telephone number of Bank employee Jitender and ask to call him. When the complainant called Jitender, he came outside the Bank and took him inside Bank premises and got his signatures on some papers and one cheque. After a few days, he received cheque book and ATM Card of IDFC Bank Account No.xxxx4210 at his home. Thereafter, in the month of April 2024, he visited HDFC Bank Badhra open Bank account there, the bank employee present there told that he is already having account No.xxxx4220 and that lot of money has been transacted in said account and that since fraud amount had come in said account, said bank-account has been frozen. Upon this he telephonically called Ashin, who asked to come on canal of village Lad.

When he reached there, Ashin, Naveen and Vikram met him. Upon enquiring from Ashin how the bank account has been opened with HDFC Bank Badhra, he answered that he got said account opened for executing duplicate/fraud transactions. He assured to give some amount and asked not to disclose it to anyone. He then came to know that above mentioned Ashin, Naveen, Vikram and bank employee Jitender have conspired to make illegal transactions through bank accounts got opened by them in his name and they have thus committed cheating. Upon this instant case FIR was registered and investigation commenced.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.
5. The State’s counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“3. That during the course of investigation conducted by ASI Sanjeet Kumar PS Cyber Crime, Charkhi Dadri bank account details of the complainant were obtained from HDFC and IDFC Bank. From perusal of bank account record it has been found that Bank account No. xxxxxxxx220 was in the name of Abhishek Digital Services and an amount of Rs.27.61 crores were found to be credited in the said account by way of small UPI payments, and the entire amount was found to be debited to another account on daily basis in a single transaction.

4. That during investigation Naveen son of Balwan resident of village Bhandwa district Charkhi Dadri was joined in investigation and arrested in the case on 19.05.2024 and a mobile phone was recovered from him. During interrogation above accused confessed his crime and stated that accused Ashin (present petitioner) of his village and Vikram resident of Laad persuaded him to open his bank account and also of others needy persons to sold these accounts to them and they will use these accounts for online gaming money transfer purpose. Thus, he opened his account in HDFC Bank and handed over the transactions detail to Ashin and Vikram, who made a transaction of Rs. 1.5 crores in his account. The accused further confessed that he persuaded Abhishek to open his accounts on different banks on the pretext of getting loan and handed over the

ownership of these accounts to Ashin and Vikram by adopting fraudulent means and these accounts were used in transfer of illegal money. From the confessional statement of accused, cheque book, pass book of the complainants HDFC Bank were recovered along with sim-card.

5. That during investigation, as per bank account details of co-accused Naveen it has been found so far that a transaction 5.37 Crore was found to have been made. That during investigation, raids were conducted on the hide outs of accused/petitioner Ashin and from his office at Gurugram another accused Ashwini son of Bhupender resident of Jagram Bass (who use to work for accused Ashin, Vikram, Vijay and others) was arrested in the case on 23.05.2024 and confessed his involvement in crime and named the co-accused Vijay Singh as one of the master mind of the above mentioned fraud stating that accused Vijay Singh operates an account in the name of Vijay OTP Group on Telegram App, which he use to circulate OTP of transactions to the present petitioner and other co-accused. Screen shots of Vijay OTP Group were recovered from the mobile phone of accused Ashwini and the same were taken in police possession. As per the chats of this group, the petitioners were in touch through telegram messages with numerous peoples including foreigners and accused/petitioner Ashin Khan and Amit Laad. Screen shot of relevant portion of chat group is annexed herewith as Annexure R-1 (Colly). Two mobile phones having details of bank transactions and Telegram chat were recovered from the co-accused Ashwani and the same were taken in police possession. Further, from the confessional statement of accused Ashwini, 03 laptops, 05 ATM Cards and 02 cheque books were also recovered from the Gurugram office of the accused. As per report obtained from JMIS portal, 11 complaints are registered against the mobile number recovered from accused Ashwini, in which a fraud of Rs.4,43,288/- has been found to be committed.

6. That as per investigation conducted so far and bank account detail of the accused Ashwani, Vikram, Naveen and complainant, obtained from various banks, transaction of about Rs. 75.00 crores have been found to be made in various accounts purchased by the accused including their own. Further investigation is under process and it is yet to be ensured that what is the source of such large account and where it has been transferred.

7. That the investigation of instant case is at a very initial stage and the accused/petitioner is one of the kingpins of the entire crime. Details of all the

given bank accounts, SIM Cards and mobile phones, are still to be received from concerned banks and the concerned Telcom Agencies and once same would come, only thereafter it could be ascertained that with how many persons and of how much amount cyber frauds have been committed by this gang. Huge transaction touching the figure of 75 crore in a short span shows that master-minds are involved to cheat the masses at a massive scale.”

7. The petitioner is one of the main accused and acted with malicious intent to rob an innocent and gullible person.
8. The petitioner and his accomplices took advantage of the breaches and vulnerabilities in the bank account opening protocols. The sly way the petitioner and his accomplices conned, tricked, deceived, swindled, and defrauded the petition itself pointed out the dangerous indicator that the thuggee has revived through misuse of vulnerabilities in the financial systems, and if not sternly dealt with now, it might upsurge, revisiting the history. Any further discussions will likely prejudice the petitioner; this court refrains from doing so. Be that as it may, this court cannot be judgmental. The gravity of the offense would not entitle the petitioner to bail at this stage.
9. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
11. **Petition dismissed.** Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.