

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-3208-2020(O&M)
Decided on : 09.06.2020

Noor Ali

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Lovinder Sofat, AAG, Punjab.

(Aforesaid Presence is recorded through video conferencing
as per instructions).

G.S. Sandhawalia, J. (Oral)
Crl. Misc. No. 12556 of 2020

Application for preponement of the main case from 15.07.2020
is allowed in view of the averments made in the application.

Hearing of the main case is preponed from 15.07.2020 to today
and the same is taken up for hearing today itself.

CRM-M-3208-2020

In the present petition filed under Section 439 Cr.P.C., the
petitioner is seeking concession of regular bail in case FIR No. 188 dated
29.07.2019 under Sections 420, 419, 467, 468, 471, 120-B IPC and Sections
66 and 66-D of Information Technology Act, 2000 registered at Police
Station Civil Lines, Patiala.

Counsel for the petitioner submits that as per the FIR lodged by
Vijay Kumar Chaudhary, who is an accountant working with Ms. Parneet

Kaur he had been informed that she had received a phone call from a person named Rahul Aggarwal, who had claimed that he was posted with the State Bank of India and taken personal information regarding the ATM card and the savings bank account. Resultantly, a sum of Rs.23,00,000/- had been withdrawn on different dates on account of which the FIR was lodged.

Counsel submits that the supplementary statement was recorded of the complainant initially on the next date on 30.07.2019 (Annexure P-2) whereby, the brother of the petitioner Afshar Ali and one Attaull Ansari, resident of Jharkhand were named and it was alleged that they were getting transferred heavy amounts by cheating people by pretending to be as bank officials. It is submitted that thereafter Cyber Cell had investigated into the matter and found that 18 transactions had taken place whereby, sum of Rs.18,00,000/- had been transferred to different wallets/accounts and the mobile number of the father of the petitioner Shamsheer Ali had also figured alongwith the brother's. Thereafter on 05.08.2019 (Annexure P-5), as per further investigation, it was noticed that Rs.6,00,000/- was also transferred and the same two names i.e. the father and the brother of the petitioner had figured.

It is the contention of the counsel that the investigation was thereafter transferred on 07.08.2019 to the CIA staff and the petitioner's name for the first time figured in the supplementary statement of the complainant Vijay Kumar Chaudhary on 07.08.2019 (Annexure P-3) wherein, apart from Afshar Ali and Attaul Ansari, his name also figured for the first time on the basis of which, he was taken into custody on 07.08.2019. It is submitted that the petitioner has, thus, been roped in on account of involvement of his brother as such. It is further submitted that

the challan as such dated 25.10.2019 (Annexure P-6) was presented which also shows that recovery as such was mainly done from Afshar Ali of a large number of SIM cards i.e. 410 in number, mobile phones and the Adhar cards etc. It is submitted that the bail has wrongly been denied by the Additional Sessions Judge, Patiala on 04.09.2019 on the ground that the SIM cards had been recovered as such from the petitioner and that he was operating in tandem with his brother, who is the co-accused.

Counsel for the State, on the other hand, has opposed the bail application on the ground that there is another case also registered at Cyberabad of a similar nature and it is submitted that there are large number of transactions whereby, the money was transferred to the Feeno Bank. The petitioner, alongwith the brother, as such, have obtained various documents of migrants based in Gobindgarh and misused the documents.

Keeping in view the above facts since investigation is complete and specially since the challan has already been presented on 05.11.2019 and the charge has also been framed on 20.12.2019. There are alleged to be as many as 22 prosecution witnesses, out of which, none has been examined yet despite the fact that the petitioner has been in custody for almost an year. Thus, this Court is of the opinion that the trial is likely to take considerable time.

The sequence of events, as noticed above, *prima facie*, as such, go on to show that the focus of investigation at the initial stage was upon the brother Afshar Ali and Attaul Ansari and majority of the recovery has also been done from him. The spot light seems to have shifted at a subsequent point of time on 07.08.2019 upon the petitioner by way of the supplementary statement of the complainant. In such circumstances, it

could be a moot case as such that whether the petitioner has also been involved only on account of his relationship with the main accused.

The petitioner, thus, is not required for any further investigation and neither the State has been able to demonstrate that he has been involved in similar cases earlier, apart from the sole case at Cyberabad. which is also of the year 2019.

Accordingly, the present petition for regular bail is allowed. Needless to say any observations made herein are only for the purpose of deciding the present bail application. The petitioner shall be released on regular bail on furnishing of heavy bail bonds/sureties to the satisfaction of Duty Magistrate/Illaqa Magistrate, Patiala.

June 09, 2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No