

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

Date of Decision : October 15th, 2020

1. CRM-M-14487-2020

Suman Kumar

..... PETITIONER

VERSUS

UT Chandigarh and others

..... RESPONDENTS

2. CRM-M-19745-2020

Sonu

..... PETITIONER

VERSUS

UT Chandigarh and others

..... RESPONDENTS

3. CRM-M-19951-2020

Karan Singh

..... PETITIONER

VERSUS

State of UT Chandigarh

..... RESPONDENT

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Pratham Sethi, Advocate, for the petitioners in all cases.
Mr. Anil Kumar Lamdharia, Additional PP, UT Chandigarh, in
CRM-M-14487-2020 and CRM-M-19745-2020.
Ms. Ashima Mor, Additional PP, UT Chandigarh, in
CRM-M-19951-2020.
Ms. Seema Arora, Advocate, for respondent No.2, in
CRM-M-14487-2020 and CRM-M-19745-2020.

Sanjay Kumar, J.

On 13.11.2019, one Chander Mohan Munjal, Advocate, submitted a complaint addressed to the Senior Superintendent of Police, Chandigarh, alleging that he had been cheated to the tune of ₹ 3,58,000/- on the pretext of renewing his lapsed HDFC Life Insurance Policy. He claimed that he was contacted by one Madhuri Kashyap in this regard through E-mail and mobile phone. He stated that, as per her instructions, he had deposited the aforestated sum of ₹ 3,58,000/- in the bank accounts furnished by her.

FIR No.0004 dated 16.01.2020 was accordingly registered on the file of Police Station, Sector 19, Chandigarh, under Sections 419, 420, 468, 471 and 120-B IPC. The accused therein was shown to be unknown. While so, another complaint was received on 07.02.2020 from one Rakesh Gupta, who claimed that he had been duped to the tune of ₹ 5,08,000/- in connection with his HDFC Life Insurance policy.

Investigation revealed that a fake Call Centre had been set up at Vasundra, Ghaziabad, Uttar Pradesh, by certain persons claiming to be the authorized personnel of HDFC Life Insurance Company, so as to swindle monies from innocent people. Gaurav Verma, Ankur Verma, Manish Kumar and Mukesh Kumar were arrested at this Call Centre on 30.01.2020. Thereafter, Suraj Murmu and Raju Ranjan Yadav were arrested as bank accounts had been opened in their names and were used for cheating the victims. On the disclosure statement of Suraj Murmu, details of 100 bank accounts, ATM Cards, Cheque Books, mobile phones and SIM Cards were recovered from the residences of Sonu and Suman.

Mamta Chauhan, who had posed as Madhuri Kashyap and cheated the complainant, surrendered before the Court on 06.02.2020 and was also arrested. In total, 10 accused are now arrayed in relation to this FIR.

While so, compromise deeds dated 29.02.2020 were executed by the accused and both the above named victims. Thereby, the amount fraudulently obtained from the said victims was returned to them.

On the strength of this compromise, a quash petition in CRM-M-10148-2020 was filed before this Court under Section 482 Cr.P.C. By order dated 06.03.2020 passed therein, this Court directed the trial Court/Illaq Magistrate to record the statements of all the parties concerned and report as to whether the compromise was genuine and was without pressure and undue influence. The report is still awaited and the case is pending consideration.

The factum of the compromise is however confirmed by Ms. Seema Arora, learned counsel appearing on behalf of the complainant, Chander Mohan Munjal. She states on instructions that the sum of ₹ 3,58,000/- taken from her client was duly returned.

Suman Kumar, one of the accused in this case, was granted interim bail on conditions, in the light of the aforestated compromise and pendency of the quash petition, *vide* order dated 09.07.2020 passed in CRM-M-14487-2020. Manish Kumar, another accused, was granted regular bail, *vide* order dated 24.06.2020 passed in CRM-M-13910-2020, on the ground that he became an employee at the Call Centre only in October, 2019, and as no overt acts were attributed to him.

However, the bail petitions of Gaurav Verma, Karan Singh and Mamta Chauhan were dismissed by this Court, *vide* common order dated 24.06.2020 passed in CRM-M-13672-2020 and CRM-M-13901-2020, taking note of the fact that other similar offences were still coming to light and merely because a compromise had been effected with two of the victims, the State would not be bound thereby and the accused necessarily had to face the consequences of their criminal conduct, if proved beyond reasonable doubt. This Court also noted the possibility of more such cases coming to light and held that the release of these accused at that stage may prejudice the course of investigation in such cases.

While so, Suman Kumar, Sonu and Karan Singh filed the present bail petitions under Section 439 Cr.P.C. seeking grant of regular bail. Be it noted that it is the second bail petition of Karan Singh before this Court. According to Karan Singh, the fraud was committed by Ankur Verma, Gaurav Verma and Madhuri Kashyap and he had nothing to do with it. He claimed that he was merely an employee at the Call Centre set up by Ankur Verma and Gaurav Verma. He further stated that no monies were deposited in his account and he was not a beneficiary of the fraudulent transactions. All three petitioners relied upon the compromises effected with the victims and pendency of the quash petition. They pointed out that they were in custody since 07.02.2020 and sought relief.

The Deputy Superintendent of Police, Cyber Crime, Investigation Cell and IT, Chandigarh, filed a reply in all three cases. Reiterating the facts set out *supra*, she stated that Karan Singh used to get bank accounts opened with the help of Sonu and Suman Kumar and

recoveries were made from both Sonu and Suman Kumar, viz., ATM Cards, Passbooks, Cheque Books, mobile phones, etc. Further, an ATM Card of Punjab National Bank was recovered from Suman Kumar and the account to which it pertained stood in the name of Mukesh Kumar. This was the account in which the complainant had deposited ₹ 1,51,000/-. She also furnished the details of the other cases registered against these three petitioners. As regards Sonu, he is shown as an accused in FIR No.09 dated 01.02.2020 on the file of Police Station Phase I, Mohali, registered under Sections 419, 420, 468, 471 and 120-B IPC; and also FIR No.35 dated 21.02.2020 on the file of Police Station Mataur, Mohali, registered under Sections 420 and 120-B IPC and Section 66 of the Information Technology Act, 2000. Sonu is on bail in both these cases.

As regards Suman Kumar, he figures as an accused in FIR No.09 dated 01.02.2020. However, he was released on bail in the light of the compromise effected therein.

As regards Karan Singh, she stated that he was shown as the accused in both FIR No.35 dated 21.02.2020 as well as FIR No.09 dated 01.02.2020 but was released on bail in both cases.

The Deputy Superintendent stated that the challan was presented in this case on 28.03.2020 and that a supplementary challan would be presented after completion of further investigation.

Mr. Pratham Sethi, learned counsel, placed reliance on the judgment of the Supreme Court in **Prabhakar Tewari vs. State of UP and another [2020 SCC OnLine SC 75]**, wherein it was held that even if the offence alleged is grave and serious and there are several criminal

cases pending against the accused, these factors by themselves could not be the basis for refusal of a prayer for bail. This judgment was referred to by a learned Judge of this Court in the order dated 19.05.2020 passed in CRM-M-54496-2019, titled **Ravinder @ Bholu vs. State of Haryana**.

Reliance is also placed by the learned counsel upon the observations made by the Supreme Court in **Sanjay Chandra vs. CBI [(2012) 1 SCC 40]**, that a balanced approach should be adopted to grant bail, subject to certain conditions, rather than keeping individuals under detention for an indefinite period. The Supreme Court observed that the Court should not deny bail solely by taking into account the seriousness of the offence or a deep rooted conspiracy being involved in the matter, causing loss of public money.

The accused are alleged to have run an organized large-scale criminal operation, whereby several innocent people were duped. As on date, the police authorities are yet to gather full information of the victims who might have been duped. On the one hand, Karan Singh seeks to push the blame onto Ankur Verma, Gaurav Verma and Mamta Chauhan, who had masqueraded as Madhuri Kashyap. On the other hand, Sonu and Suman Kumar claim to be just employees. However, recoveries were effected from all three of them and the investigation seems to have shown complicity on their part also.

The challan having already been filed, the Deputy Superintendent states that a supplementary challan would be filed after completion of further investigation. Insofar as the subject FIR is concerned, the complainant has already been appeased. In such a

situation, it is for the State to decide as to how it would continue with the prosecution of this case without his active cooperation. Enough incriminating documentary evidence seems to have been gathered and the same may be sufficient in itself.

It may be noted that the trial Court would not be helpless in such a situation and recourse can be taken to Section 311 Cr.P.C to summon and examine the complainant if his evidence appears to be essential to the just decision of the case.

In any event, the facts brought out during the investigation clearly demonstrate that this is an organized large-scale criminal operation undertaken to cheat several people and it is probable that other cases may still come to light. Significantly, no new cases have been detected since the dismissal of the earlier bail petitions of Karan Singh, Gaurav Verma and Mamta Chauhan. However, though the challan has been filed on 28.03.2020, the Deputy Superintendent stated that further investigation is still ongoing and that a supplementary challan may also be filed in due course. It is for the Investigating Officer to unearth further relevant facts and evidence and place the same on record by way of such supplementary challan. There is every possibility that such further investigation may require the cooperation of the petitioners.

That being so, this Court is not inclined to accept that the compromise effected with the complainant would be reason enough to infer that the fate of this case is doomed and that the petitioners would automatically be entitled to release on bail. Significantly, offences under Sections 468 and 471 IPC are not even compoundable under Section 320

Cr.P.C. This is obviously for the reason that they tend to impact society on a wider and more general scale than a personalized offence of cheating directed against an individual under Section 420 IPC, which is compoundable with the permission of the Court. The compromise, in itself, may therefore not be reason enough to bring down the curtains. However, as matters stand, the investigation seems to have been completed to a great extent insofar as the present FIR is concerned and recoveries have also been effected. There is no mention by the Deputy Superintendent of further recoveries being anticipated from the petitioners in the ongoing investigation.

It may also be noted that even if the petitioners are held guilty of the offences alleged against them, the consequent sentence of imprisonment would not be in excess of seven years. They would therefore be entitled to the protection afforded by the law laid down by the Supreme Court in **Arnesh Kumar vs. State of Bihar [(2014) 8 SCC 273]** with regard to grant of bail.

In that view of the matter, no purpose would be served in continuing with the custodial incarceration of the petitioners. However, given their alleged complicity in these nefarious operations and the fact that the investigation is still not complete, grant of relief to them would have to be subject to conditions.

These petitions are accordingly allowed directing the release of the petitioners on regular bail in FIR No.0004 dated 16.01.2020 on the file of Police Station, Sector 19, Chandigarh, upon their furnishing personal bonds for a sum of ₹ 2,00,000/- each along with two sureties for

a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned. The petitioners shall rejoin the investigation as and when called upon to do so and cooperate with the police authorities. Further, the petitioners shall not offer any inducement, threat or promise to any person connected with the case.

October 15th, 2020
Kang

(Sanjay Kumar)
Judge

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