

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

Date of Decision : October 15th, 2020

1. CRM-M-21537-2020

Gaurav Verma

..... PETITIONER

VERSUS

State of UT., Chandigarh

..... RESPONDENT

2. CRM-M-23125-2020

Mamta Chauhan

..... PETITIONER

VERSUS

Union Territory, Chandigarh

..... RESPONDENT

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Ashok Tyagi, Advocate, for the petitioner in
CRM-M-21537-2020.
Mr. Vivek Lamba, Advocate, for the petitioner in
CRM-M-23125-2020.
Ms. Ashima Mor, Additional PP, UT Chandigarh.

...

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 aforesaid 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 also arrested on that day as bank accounts had been opened in their names and were being used for cheating the victims. On the disclosure statement made by Suraj Murmu, details of 100 bank accounts, ATM Cards, Cheque Books, mobile phones and SIM Cards were elicited and the same 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.

Suman Kumar, one of the accused in this case, was granted interim bail on conditions, in the light of the aforesaid 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, Gaurav Verma and Mamta Chauhan again seek grant of regular bail under Section 439 Cr.P.C. Be it noted that these are the second bail petitions filed by them before this Court.

Gaurav Verma cited personal grounds for seeking bail, stating that his wife had suffered a fall and required medical attention. He also cited the compromise effected with the complainant as a ground for seeking relief. Mamta Chauhan also referred to the compromise and the pending quash petition. She stated that her 10 year old daughter was suffering due to her mother being away from her since February, 2020.

The Deputy Superintendent of Police, Cyber Crime, Investigation Cell and IT, Chandigarh, filed a reply in both cases. Reiterating the facts set out *supra*, she stated that a diary was recovered from Gaurav Verma containing details of several people, including the complainant. She further stated that it was Gaurav Verma, Ankur Verma and Mamta Chauhan who had set up the Call Centre. Apart from the case on hand, Gaurav Verma was stated to be involved in three other cases in Punjab and Uttarakhand - he is shown as the accused in FIR No.303 of 2020 on the file of Police Station Kotwali, Roorki, Uttarakhand, registered under Section 420 IPC; 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; and FIR No.09 dated 01.02.2020 on the file of Police Station Phase I, Mohali, Punjab, registered under Sections 419, 420, 468, 471 and 120-B IPC. She however admitted that he was released on bail in the latter two cases.

Insofar as Mamta Chauhan is concerned, the Deputy Superintendent stated that it was she who had posed as Madhuri Kashyap and convinced the complainant to part with money. Further, a register containing details of HDFC Life Insurance policies of various people, note books, photocopies of cheques and the ID Card of Madhuri Kashyap were recovered from her residence. She was stated to be an accused in FIR No.35 dated 21.02.2020 on the file of Police Station Mataur, Mohali; FIR No.09 dated 01.02.2020 on the file of Police Station Phase I, Mohali; and FIR No.303 of 2020 on the file of Police Station Kotwali, Roorki, Uttarakhand, referred to *supra*. She was however released on regular bail in FIR No.35 dated 21.02.2020 as well as FIR No.09 dated 01.02.2020.

The aforestated facts establish that Gaurav Verma, Ankur Verma and Mamta Chauhan are suspected to be the kingpins behind this fraudulent operation and it was they who allegedly set up the Call Centre. No doubt, a compromise seems to have been effected by them, whereby the complainant in this case has 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
Whether reportable	No