IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-50819-2019
Date of decision: 06.03.2020

Manjeet Walia .....Petitioner

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, AAG, Haryana
for the respondent.

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ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.187 dated 07.05.2019 registered under Sections 379 and 420 of the Indian Penal Code, 1860 (for short, "IPC") at Police Station City Hisar, District Hisar to which Sections 66 and 67 of the Information and Technology Act, 2000 were added lateron.

Briefly stated, the facts relevant for disposal of the present petition are that Roshan Lal Sharma, Manager, Hisar Urban Co-operative Bank submitted written complaint to SHO Police Station City Hisar. In the complaint Roshan Lal Sharma alleged that the above said bank is maintaining a CBS account with HDFC Bank Delhi Office in its name. On 03.05.2019, some persons had hacked their internet banking software and password and transferred an amount of Rs.9,99,760/- from their account as per the details given in the complaint and action be taken against them.

Pursuant to registration of the FIR on the basis of the above said complaint, the police investigated the case and arrested the petitioner and recovered amount of Rs.2,99,760/- from his account which was frozen. The petitioner, being in custody from the date of his arrest on 12.07.2019, has sought grant of regular bail.

Learned State counsel has appeared and opposed the petition in terms of reply by way of affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police Headquarter, Hisar filed on behalf of the respondent-State.

In its reply, while reiterating factual averments made in the complaint, respondent-State has pleaded that during investigation it was found that amount of Rs.2,99,760/- had been transferred to the account of the petitioner and that remaining accused namely Lolrin Fela, Imli Temsu and Rajni Sharma who had actively participated in the crime could not be arrested despite various raids. The petitioner is involved in two more cases.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the case. The petitioner had nothing to do with the alleged commission of crime. The petitioner is not much educated person and was not aware about the transaction. Otherwise he would have informed the bank officials on the very same day when the transaction had taken place. If his intention was to commit any crime, he would not have kept the amount in his bank account. The petitioner is not involved in the commission of subject offences. The trial is likely to take long time and the petitioner is ready to abide by the terms and conditions regarding his appearance before the Court. Therefore, the petitioner may be granted concession of regular bail.

On the other hand, learned State counsel has argued that the petitioner participated in the commission of crime and part of the amount transferred by hacking the account of the complainant was credited to his account. The petitioner is involved in two more cases of similar nature-FIR No.239 of 2019 registered under Sections 420 of the IPC, Section 66 of the of the Immoral Traffic (Prevention) Act, 1956 and Section 67 of the Information and Technology Act, 2000 at Police Station Subhash Nagar, Bareilly and FIR No.569 of 2018 registered under Section 420 of the IPC and 66 D of the Information and Technology Act, 2000 at Police Station Izzat Nagar, Bareilly. Out of seven prosecution witnesses named in the list of prosecution witnesses six witnesses have already been examined and the trial is not likely to take long time. In view of serious nature of offences, the petition may be dismissed.

In the present case, the petitioner along with his co-accused is alleged to have transferred amount of Rs.9,99,760/- by hacking the internet banking software and password of the account of the complainant. An amount of Rs.2,99,760/- out of the above said amount was credited to the account of the petitioner on 03.05.2019 whereas the FIR was lodged on 07.05.2019. The petitioner did not give any information to his bank regarding wrong credit of the amount and did not make any request for taking of correctional action which prima facie shows his involvement in the commission of the subject offences. The petitioner is involved in two other cases of similar nature. The question of guilt or innocence of the petitioner has to be determined on the basis of evidence to be produced before the trial Court which is not likely to take long time as out of seven prosecution witnesses named six prosecution witnesses have already been examined. Moreover, the trial can also be ordered to be expedited.

Socio-economic offences constitute a class apart and need to be visited with different approach in matter of bail. Since socio-economic offences have deep rooted conspiracies affecting the moral fibre of society and causing irreparable harm, the same have to be viewed seriously. Reference in this regard may be made to ***State of Bihar and another Vs. Amit Kumar @ Bachaha Rai : 2017 (13) SCC 751 and Rohit Tandon Vs. Directorate of Enforcement : 2018(11) SCC 46***.

The cases involving cyber crime are on the increase and have to be sternly dealt with in view of the magnitude of cyber crimes in cheating large number of persons and depriving them of their hard earned money. Allegations of hacking of internet banking software and password cannot be equated with any other offence of theft of moveable property. Such offences on the other hand seriously jeopardise the security of and the confidence of the people in the banking system and also have adverse effect on the national economy.

In these facts and circumstances, I am of the considered view that the petitioner does not deserve grant of regular bail. Therefore, the petition is dismissed.

However, in view of the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1)***

RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312 and ***Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite the trial and conclude recording of prosecution evidence preferably within a period of one month by issuing coercive process for securing presence of the remaining witness, if so required.

Nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

06.03.2020 **(ARUN KUMAR TYAGI)**
Vinay **JUDGE**

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