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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 11.03.2020

\+ BAIL APPLN. 2549/2019

UADAY SINGH ..... Petitioner

Through Mr. Ram Kishor Singh Yadav, Mr. Kaushal Yadav, Mr. Nandlal Kumar Mishra and Ms. Ankita Agaral, Advs.

versus

STATE & ANR. ..... Respondents

Through Mr. Hirein Sharma, APP for State
Mr. Rajesh Kumar, Adv. for complainant
Mr. Anil Grover, Adv. for CBI

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

1. Present petition is filed under Section 439 Cr.P.C. for grant of bail in FIR No. 81/2018 registered at P.S. Dwarka Sector-23 for offences punishable under Section 409/420/506/467/468/471/120-B IPC.

2. It has been alleged in the FIR that accused Devender Chaudhary, who was working with Central for Development of Advanced Computing (C-DAC), by manipulating and creating EPFO data has caused misappropriation of approximately ₹3.88 crores, the said Devender Chaudhary is alleged to have been working on a project with EPFO. In the

said FIR, petitioner is alleged to have information about receiving of amount by co-accused Neeraj Kumar in his account from Devender Chaudhary.

3. Counsel for petitioner submits that there are no allegations of misappropriation or transferring of money by petitioner in any account, while working with C-DAC alongwith Devender Chaudhary. However, on 20.03.2019, the statement of co-accused Neeraj Kumar was recorded and the said co-accused has alleged that petitioner had knowledge about the crediting of some of money in his account, which allegedly he later on shared with petitioner and Devendra Chaudhary on the demand of Devender Chaudhary. However, on 13.04.2018, co-accused Neeraj Kumar was granted regular bail by Ld. CMM, Dwarka Court on his depositing the alleged misappropriated money credited into his account. Thus, the petitioner also seeks parity with co-accused Neeraj Kumar.

4. Learned counsel further submits that an additional affidavit was filed on behalf of petitioner on 18.10.2019, whereby, stated that respondents allegation is that around ₹1,38,12,490/- was transferred in the accounts of the persons who are known to the petitioner. Out of the said amount, ₹60,01,933/- has been deposited in the court in the form of FDRs and ₹50,93,252/- has been lying frozen in the accounts of said persons. Apart

from that, it is admitted case of prosecution that petitioner has not received any money from Tirlok Singh and Pramod Kumar, who are alleged to be friends and are known to the petitioner. In the account of Trilok Singh, an amount of ₹25,93,355/- was credited, while ₹11,87,573/- credited in the account of Pramod Kumar, therefore, the entire money shown in the charge sheet has been recovered or deposited by petitioner and nothing more is required from petitioner. Moreover, petitioner is in judicial custody since 19.03.2018 and no purpose would be served, if the petitioner continues to remain in judicial custody.

5. It is pertinent to mention here that initially investigation was with Delhi Police who filed charge sheet and thereafter the investigation was transferred to CBI.

6. During the course of investigation it was revealed that petitioner joined EPFO as Assistant Programmer in the year October 2011 and continued to work till September, 2014. Thereafter, petitioner joined EPFO as Programmer in October 2014 and worked till March 2016. Petitioner again joined EPFO as Project Engineer-1 in August 2016 and worked till January 2018. Thereafter, he joined EPFO as Data Base Administrator in February 2018 and worked till 17.03.2018. Co-accused Devender

Choudhary was also working as Project Engineer-1 with EPFO. Both Devender Choudhary and petitioner were engaged in developing the software of EPFO Department and they dealt with online claims, deduction etc. Petitioner was acquainted with the loopholes of the software programme. Accordingly, he conspired with Devender Choudhary and others and planned to withdraw the amount from the Central Account of EPFO. It was decided by them that share of each person would be 20%.

7. During the investigation, petitioner along with Devender Choudhary and others filled the details of fake members in EPFO portal and huge amount was transferred in different fake accounts in the name of fake members. Thereafter, the amount was withdrawn and shared by them. Investigation further revealed that amount of ₹24,58,524/- and ₹70,081/- were credited on 19.01.2018 in the name of Sanjay Singh, Account No. 167101021989 with Canara Bank, Bachgaon, District Firozabad, Uttar Pradesh from the account of EPFO. Similarly, amount of ₹15,26,122/- and ₹74,029/- were credited on 25.01.2018 in the account of Pratap Singh, Account No. 2960000100139818 with Punjab National Bank from the account of EPFO. Both are real brothers of the petitioner. Investigation is still in progress in this regard.

8. Sh. Evran Singh is maintaining account no. 083210110001229 with Gramin Bank of Aryavart, Branch Bachgaon, District Firozabad, Uttar Pradesh and it was revealed that amount of ₹6,630/- and ₹4,76,967/- were credited in the account of Evran Singh on 10.01.2018 respectively from the account of EPFO. It was further revealed in the investigation that Evran Singh belongs to Village Bachgaon, District Firozabad and is a friend of petitioner. The said transactions were made on the instance of petitioner. Investigation is still in progress in this regard also.

9. Further revealed that an amount of ₹17,43,811/- was credited in the account of Deepak Kumar Singh, Account No. 083210110000815 with Gramin Bank of Aryavart, Behgaon, District Firozabad on 29.12.2017 from the EPFO Account. Similarly amount of ₹50,246/- was also credited on 29.12.2017 in the said account from the EPFO Account. Investigation revealed that Deepak Kumar is cousin brother of petitioner and belongs to Village Bachgaon, District Firozabad. Petitioner also belongs to same village. Investigation is still in progress in this regard also.

10. Further investigation revealed that on 14.12.2017, Deepak Kumar had transferred amount of ₹4,50,000/- from his account to his father namely Sh. Mahipal Singh in Account no. 1580101012143 Canara Bank, Bachgaon,

District Firozabad. Mahipal Singh is uncle of petitioner. Further, on 26.12.2017, Mahipal had transferred Rs. 2,00,000/- in the account No. 1580101006812 with Canara Bank, Bachgaon, in the name of Smt. Tara Devi (mother of the petitioner) through Cheque No. 307331 dated 26.12.2017. Further, on the scrutiny of the account of said Mahipal, it was revealed that Deepak Kumar had transferred amount of ₹10,00,000/- on 26.04.2018 from his account to the account of Mahipal who got Demand Draft prepared for amount of ₹4,11,300/- dated 26.04.2018 from Canara Bank. This Demand Draft was presented by advocate of petitioner before the learned CMM Dwarka Courts for release of petitioner on bail. The Court neither accepted the Demand Draft nor ordered to release petitioner. Thereafter, Mahipal got the Demand Draft cancelled and got an FDR in favour of Regional Provident Fund Commissioner.

11. Further revealed that amount of ₹22,14,556/- and ₹75,830/- were credited in the account of Rajesh Kumar, Account No. 52810449397 on 25.01.2018 from Standard Chartered Bank from the EPFO Account. The said Rajesh Kumar is a friend of petitioner. It was revealed that at the instance of petitioner the said amount was transferred to the account of Rajesh Kumar.

12. In addition to above, Ravinder Kumar is maintaining Account No. 915010041876875 with Axis Bank, Meerut and on amount of ₹9,37,259/- and ₹57,323/- was credited in the account of Ravinder Kumar on 25.01.2018. The said amounts were transferred from the EPFO account at the instance of petitioner. It was revealed that Ravinder Kumar is a batch mate of petitioner, as they both did MCA from MIET Meerut. Investigation is still in progress in this regard.

13. It is pertinent to mention here that Tara Devi is mother of petitioner. It was revealed that she is maintaining account number 1580101006812 with Canara Bank, Bachgaon and had deposited substantial cash in her account. She deposited ₹40,000/- on 15.11.2017, ₹ 2,00,000/- on 20.11.2017 and ₹1,00,000/- on 29.01.2018. After perusal of the statement of account of Tara Devi, it was found that prior to 15.11.2017 i.e. the time before these fraudulent activities began, average balance in her account was approximately ₹5000-7000/- but after 15.11.2017 huge amount was deposited and withdrawn. It was further revealed that there was a credit entry through RTGS in the account of Tara Devi for ₹ 4,00,000/- dated 09.02.2018, ₹4,00,000/- dated 13.02.2018, ₹7,00,000/- dated 21.02.2018 and ₹7,00,000/- dated 03.03.2018. Investigation is still in progress in this regard.

14. Moreover, petitioner had purchased agricultural land in the name of his mother. The details of the properties are as under:-

i. Bahi No. 1 Jild No. 2598 at Pages 349 to 362 SL. No. 646 dated 12.02.2018 (total land 0.36/6 Hect. for Rs. 1,50,000/- circle rate was ₹2,25,000)

ii. Bahi No. 1 Jild No. 2569 at Pages 217 to 242 SI. No. 4355 dated 30.12.2017 (total land 0.31333 Hect. for Rs. 6,00,000/- circle rate was ₹11,60,000).

iii. Bahi No. 1 Jild No. 3591 at Pages 56 to 64 SL. No. 445 dated 30.01.2018 (total land 0.23983 Hect. for Rs. 5,00,000/- circle rate was ₹8,88,000).

iv. Bahi No. 1 Jild No. 2590 at Pages 277 to 296 SL. No. 437 dated 30.01.2018 (total land 0.96 Hect. for Rs. 2,00,000/- circle rate was ₹3,56,000).

v. Bahi No. 1 Jild No. 2590 at Pages 247 to 2588SL No. 435 dated 30.01.2018 (total land 0.06066 Hect. for Rs. 1,50,000/- circle rate was ₹2,25,000).

vi. Bahi No. 1 Jild No. 2590 at Pages 259 to 276 81. No. 436 dated 30.01.2018 (total land 0.441 Hect. for Rs. 1,60,000/- circle rate was ₹2,72,000).

15. Moreover, Ms. Vidushi Kushwaha, daughter of petitioner, revealed that she is maintaining an account having number 36968928679 with State Bank of India, Sector 23, Dwarka who deposited cash in her account twice i.e. ₹30,000/- on 21.11.2017 and ₹30,000/- again on 06.12.2017. Investigation is still in progress in this regard.

16. Further, father in law of petitioner, namely, Vasudev is maintaining account No. 33099042555 with State Bank of India, District Mahamaya Nagar, Hathras, UP and it was revealed that an amount of ₹7,51,758/- was credited in his account on 25.01.2018 and similarly amount of ₹72,013/- was also credited in his account on 25.01.2018. It was revealed that both these amounts were transferred from the EPFO Account.

17. Further revealed that Pramod Kumar belongs to village of petitioner and is maintaining account No. 88142010017295 with Syndicate bank, Firozabad and an amount of ₹11,31,500/- and ₹56,073/- were credited in the account of Pramod Kumar on 05.01.2018 respectively. These amounts were transferred from the account of EPFO. The above said transactions were made at the instance of petitioner. It was revealed that Pramod Kumar is familiar with Pratap Singh, brother of petitioner, however, investigation is in progress in this regard.

18. Another person namely Trilok Singh (office colleague of Pratap Singh brother of petitioner working in BSNL) was residing in Meerut with petitioner when he was pursuing MCA Course, is maintaining Account No. 0379101040716 with Canara Bank, Sadar Bazar, Agra. It was revealed that an amount of ₹25,27,233/- and ₹66,122/- was credited in the account of

Sh.Trilok Singh on 10.01.2018 from EPFO. Immediately after transfer of these amounts, said Trilok Singh contacted Pratap Singh Kushwaha. During investigation, Trilok Singh submitted an affidavit dated 05.06.2018 before the IO to the effect that amount of ₹25,27,233/- and ₹66,122/- was credited in his account and admitted that he was in need of a loan and in this regard Pratap Singh Kushwaha disclosed to him that his younger brother i.e. petitioner herein would arrange loan for him.

19. Though, Neeraj Kumar, co accused has already been admitted on bail by the Trial Court on his depositing the amount, however, the application of the petitioner was dismissed on the ground that petitioner has played a key role and has siphoned off huge amount. The fact remains that investigation was initially with Delhi Police but the same has now been transferred to CBI to further investigate as to how the petitioner siphoned off the money. The investigation is at the advanced stage.

20. However, Mr. Anil Grover, learned counsel appearing on behalf of CBI has stated at bar that CBI has decided to file application for cancellation of bail of Neeraj Kumar for the reason that further investigation is required as to how the money was siphoned off.

21. In view of the serious allegations and fraud played upon the EPFO department and the fact that Devender Chaudhary is absconding, I am of the view that present case is not fit for bail.

22. Accordingly, the petition is dismissed.

23. Order *dasti*.

(SURESH KUMAR KAIT)
JUDGE

MARCH 07, 2020/ms