

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

CRM-M-5579-2021 (O&M)
Date of Decision:- 13.12.2021

Rajan @ Hunny

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar Sharma, Advocate for the petitioner.

Ms. Sheenu Sura, DAG, Haryana
assisted by Inspector Sudhir.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No. 229 dated 19.11.2020 at Police Station Ding, District Sirsa under Sections 420, 467, 468, 471/120-B of Indian Penal Code, wherein offence under Section 66-D of Information Technology Act, 2008 was added later on.
2. The FIR in question was lodged at the instance of SI Rajpal, wherein it is alleged that on 19.11.2020 when he alongwith other police officials were patrolling near Village Sherpura, then a secret informer informed that Sanjay Son of Dharambir, Ajay Kumar, Govind Singh, Vikas, Sanjay Son of Pritam, Darshan and Harsh used to purchase activated SIMs of different companies on the basis of forged documents in huge numbers and used to insert the same in different mobiles phones and laptops and caused financial losses to various companies in an illegal manner. The information was further to the

effect that the said persons at the given point of time were present at Sherpura Bus Stand. Pursuant to receipt of said information, a raid was conducted at the bus stand, where the aforesaid 7 persons were apprehended and their search led to recovery of mobile phones and a large number of SIMs from each of them. From one of the accused as many as 49 SIMs were recovered while from others 28 and 30 SIMs were recovered. Upon being questioned the said persons could not produce any document pertaining to ownership of the recovered mobile phones or SIMs. It is further the case of prosecution that during the course of interrogation some of the accused made disclosure statements including Sanjay Son of Pritam. In his disclosure statement, Sanjay disclosed that a scheme had been floated by 'Dhani App' as per which upon deposit of ₹10,000/-, an amount of ₹100/- was given as cashback/bonus and that one person could avail of such scheme only twice a month. Sanjay stated that in order to avail of said cashback/bonus, they made transactions through fake SIMs and fake e-mail IDs and used to fleece the companies. He further disclosed that in order to avoid detection of their identity they used to get the 'root' of the mobile phones done, which was being got done through Vikramjit Singh from his shop situated at Ding Road, District Sirsa, who used to charge ₹800/- per mobile phone.

3. The learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and is sought to be nominated on the basis of a disclosure statement made by co-accused, the authenticity and veracity of which would be debatable. Learned counsel has further submitted that, in any case, even as per the said disclosure statement, the petitioner cannot be said to be the beneficiary of the amounts siphoned off from various

companies. It has further been submitted that the petitioner, in any case, deserves the concession of bail on ground of parity since all other co-accused are on bail/interim bail.

4. The learned State counsel, while opposing the petition, has submitted that since it is with the help of the petitioner that the co-accused were able to commit the fraud in question and to cause huge loss running in crores to various companies including Dhani App, Amazon and PayZapp, his complicity in the entire scam is clearly evident and, as such, he does not deserve the concession of bail. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 1 year and all other co-accused are on bail. It has been informed that challan already stands presented and that as many as 36 PWs have been cited by the prosecution.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case and the fact that the petitioner is not named in the FIR and that his name surfaced during the course of interrogation on the basis of disclosure statement of co-accused and that the petitioner has been behind bars for a substantial period of about 1 year and while also noticing that co-accused have already been granted regular/interim bail by this Court, further detention of the petitioner will not serve any useful purpose as the conclusion of trial will take some time.
7. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

13.12.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No