

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-6003-2021 (O&M)
Date of Decision:-6.4.2021

Vikramjit ... 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, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by Inspector Sudhir.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.229 dated 19.11.2020 at Police Station Ding, District Sirsa under Sections 420, 467, 468, 471 and 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 mobile 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. The said statement is annexed as Annexure R-4, wherein 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. 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 and that he at best can be said to have provided technical assistance, which he had provided as a matter of his business as he was running a mobile accessories shop. Learned counsel has further submitted that, in any case, since the petitioner has been behind bars since the last about 4 months and challan already stands presented, he deserves to be released on bail.

4. Opposing the petition, the learned State counsel 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, Paytm 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 further submitted that it was on account of the change of 'root' that the same mobile phone and SIM could be used several times for the purpose of availing the cashback/bonus by way of several sham transactions and that but for the technical assistance of the petitioner, the entire fraud could not have been committed. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 months and that he stands involved in one more case. It has been informed that challan already stands presented and charges are yet to be framed and that as many as 36 PWs have been cited by the prosecution.
5. I have considered rival submissions addressed before this Court.

6. It is not in dispute that the petitioner is not named in the FIR and that his name surfaced during the course of interrogation when co-accused disclosed the *modus operandi* of the fraud and stated that it was by way of 'rooting' of mobile phones that the fraud was committed and that the said 'rooting' was being done by the petitioner. It will be debatable as to whether the petitioner was an actual beneficiary of the amount being siphoned off from various companies or as to whether he was only getting his professional fee for the purpose of 'rooting'. In any case, since the petitioner has already been behind bars for the last about 4 months and challan already stands presented, further detention of the petitioner will not serve any useful purpose. 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.
7. It is, however, clarified that none of the observation made above shall be taken to be an expression on merits of the main case.

6.4.2021

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No