

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

CRM-M-6191-2021 (O&M)
Date of Decision:- 13.12.2021

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 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. 228 dated 18.11.2020 at Police Station Ding, District Sirsa under Sections 420, 467, 468, 471/120-B IPC, 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 ASI Tarsem Singh, wherein it is alleged that on 18.11.2020 when he alongwith other police officials were patrolling at Bus Stand Ding, then a secret informer informed that Ramesh Kumar Son of Rameshwar, Vinod Kumar Son of Rajbir, Subhash Chander Son of Mahender Singh and Rajesh Kumar Son of Ram Singh alongwith other companions 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 had built an office near Railway Line, Ding under the name and style of M/s S.S. Communication. Pursuant to receipt of said information, a raid was conducted and upon seeing the police party four persons standing outside the office of M/s S.S. Communication tried to flee away with black coloured polythene bags carried by them in their hands but they were apprehended by the police party. The apprehended persons disclosed their names as Ramesh Kumar, Vinod Kumar, Subhash and Rajesh Kumar and the search led to recovery of a Laptop from Ramesh Kumar and also mobile phones and a large number of SIMs from each of them. From one of the accused as many as 141 SIMs were recovered while from others 54, 55 and 20 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 all the accused made disclosure statements including Ramesh Kumar. In his disclosure statement, Ramesh Kumar 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. Ramesh Kumar 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.

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 1 year and that the petitioner is on interim bail and challan already stands presented, he deserves to be released on 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, Facebook App, 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 1 year 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.

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 'routing' of mobile phones that the fraud was committed and that the said 'routing' 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 'routing'. In any case, since the petitioner has already been behind bars for the last about 1 year and challan already stands presented, further detention of the petitioner will not serve any useful purpose.
7. The petition, as such, is accepted and the interim bail granted to the petitioner vide order dated 27.5.2021 is hereby made absolute.
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