206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11312-2021
DECIDED ON: 17th MARCH, 2021

DAVISON OSARO IYENGUNMWWNA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Dixit Garg, Advocate for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition is filed for grant of regular bail in case of FIR No. 166, dated 12th September, 2020, under Sections 419, 420 IPC and 66-D of Information Technology (Amendment) Act, 2008 (Section 120-B IPC and 3/14 Foreigner Act, 1946 added later on), registered at Police Station Cyber Crime, District Gurugram.

The FIR was on the basis of the complaint received from Dhirender Kumar. Complainant received a whatsapp message from a lady posing as an employee Anti Terrorist Department of UK Army. She offered a business partnership to open a medicine company. The complainant was told that one Antonio is coming to India with a box carrying 8.7 million U.S dollars, his phone numbers were given. On the pretext of getting box cleared, complainant was made to pay an amount of ₹20,000/- by Antonio. The amount was deposited in a bank account.

Another amount of ₹44,000/- was demanded for transportation and documentation. The said amount was also deposited in the given bank account. The complainant was duped of more than one crore by getting demands on one pretext or other.

During investigation Murphy Emawodia was arrested. As investigation progressed it came into light that six accused were acting together, four were Nigerian citizens and two Indians were involved. It was further found that the petitioner was actively involved and was supplying SIM cards for making calls and sending whatsapp messages. The petitioner was arrested, four pen drives, 13 Foreign Sims, 20 Indian Sims were recovered from him.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated. Petitioner was not named in the FIR and was only working in a mobile shop and actually he has a hair saloon.

Learned State counsel opposes the prayer for grant of bail. The argument is that the petitioner was in possession of Foreign Sims as well as Indian Sims. These sims were active and were being used for making calls and sending messages. He, on instructions from ASI Jagbir Singh submits that 23 mobile phones were recovered from the petitioner and he was having 19 bank accounts in which there was an amount of ₹13,47,170.52/-. The accounts have been freezed.

Considering the nature of the allegations against the petitioner and the module of their operation, no case is made out for grant of regular bail. It is a case of online fraud. There is an active participation by the petitioner. Learned counsel for the petitioner *albeit* argues that it is a case of false implication but had even no *prima-facie* answers as to how the petitioner was possessing 13 Foreign Sims. In case the petitioner is set at large there would be a fair possibility of evidence being tampered with.

Petition is dismissed.

However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

17th MARCH, 2021
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Whether speaking/reasoned *Yes*
Whether reportable *Yes*