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

CRM-M-48213-2019

Date of decision : 25.10.2021

Vijay Bangia

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G., Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.48 dated 09.07.2019 registered under Sections 419, 420, 465, 204, 120-B of the Indian Penal Code, 1860 and Sections 66C and 66D of the Information Technology (Amendment) Act, 2008 at Police Station Cyber Crime, District Gurugram.

The brief facts of the prosecution case are that the petitioner alongwith his co-accused namely Naveen Kumar had taken the premises on rent from one Jagdeep Singh who is stated to be the owner of the said premises and had purchased a website domain "Naukari1.com" and had opened an account in the name of M/s Hard Drive Media Ltd., which was stated to be the sole proprietorship of one Mohini Chopra and the petitioner alongwith co-accused had cheated one Radhakrishnan Pattabiraman and

other persons by dishonestly inducing them to make the payment online through RTGS/NEFT in the said account.

On 13.12.2019, this case had come up for hearing before a Coordinate Bench of this Court when a detailed order was passed vide which the interim bail was granted to the petitioner. In the said order, the observations were also made with respect to the fact that the investigation was required to be carried out on certain important aspects of the matter. In light of the fact that the offences were triable by the Judicial Magistrate Ist Class, as also the fact that co-accused of the petitioner namely Naveen Kumar Nimbal had already been granted bail by the Court of Additional Sessions Judge, Gurugram and also the fact that the conclusion of the trial is likely to take time, interim bail was granted to the petitioner. Relevant part of the order dated 13.12.2019 is reproduced hereinbelow:-

“Accordingly, the petitioner is ordered to be released on interim bail on furnishing of bail bonds by him to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Gurugram subject to the following conditions :

- 1. The petitioner will not commit any offences of similar nature;*
- 2. The petitioner will not leave the country without permission of the Trial Court and ;*
- 3. The petitioner will co-operate in investigation and will not tamper with evidence, influence or intimidate the witnesses. In case of breach of any of these conditions, his bail in the present case will also be liable to be cancelled on filing of an application in this regard before the Trial Court.*

The Special Investigation Team shall submit status report regarding the investigation of the case to this court

within 2 months.”

In pursuance of the observations which had been made in the said detailed order dated 13.12.2019, the State had submitted its status report on two occasions. The latest status report/supplementary status report is dated 25.08.2021.

Learned counsel for the State has referred to the said report and has specifically pointed out para 3 of the same in order to show that because of a delay of 8 months in registering the FIR, a regular departmental enquiry was ordered against the erring official ASI Pankaj in which, he had been indicted and a punishment of stoppage of one future increment with temporary effect has been finalized. With respect to the allegations of illegal ratification to the tune of Rs.1.5 lacs, reference has been made to paras 5 and 6 of the reply to show that Neeraj Malik who had earlier given that statement, had withdrawn the said statement. Reference has also been made to para 7 of the status report to highlight the fact that an amount of Rs.1.5 lacs which had been taken into possession as per the procedure laid down under Section 102 of Cr.P.C. has come under the ambit of investigation in the present case as crime proceeds.

Learned counsel for the State has also stated that the detailed and thorough investigation has been done and challan in the present case has already been presented against 5 accused persons. Further, as per para 11 of the reply, it has been stated that the audio conversation in reference of the amount of Rs.4.5 lacs which is stated to have been paid by the complainant-Radhakrishanan has also been taken into possession and the same has been sent for forensic analysis to the FSL, Haryana and the

specimen voice sample of Naveen Kumar (co-accused) has been submitted for the purpose of enabling comparison to the FSL Haryana. The investigations have also been made with respect to the details of the domain registered as “Naukri1.com” and it has transpired that the I.P. Address stood registered in the name of Jagdeep Singh-accused who has already been arrested. As per the status report, the relevant record from the payment aggregators Paytm and Payswiff has also been taken on record. It has been stated that the said investigation has been conducted after having received the appropriate technical assistance from the experts in the field of the Information Technology.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case and he was not named in the FIR. It is further reiterated that the co-accused of the petitioner namely Naveen Kumar Nimbal who had been named in the FIR, has already been granted the concession of regular bail. No recovery is to be effected from the petitioner and the conclusion of the trial is likely to take time and the petitioner has duly complied with all the conditions, which have been imposed while granting interim bail to him vide order dated 13.12.2019 and further undertakes to abide by the said conditions.

Learned counsel for the State has reiterated the fact that the investigation has been done in the present case in a very thorough and scientific manner and the observations made by the Coordinate Bench of this Court in various orders passed have been taken into consideration and the challan has been presented after duly looking into the whole aspect of the matter.

This Court has heard the learned counsel for the parties.

A perusal of the supplementary status report dated 25.08.2021 would show that the investigation has been conducted thoroughly in the matter and the concerns of this Court, have duly been met with. Further, keeping in view the facts that the petitioner was not named in the FIR and the co-accused of the petitioner has already been granted regular bail by the Additional Sessions Judge, Gurugram and the conclusion of the trial is likely to take time and also the fact that the petitioner has duly complied with the conditions as mentioned in the order dated 13.12.2019 granting him interim bail and has further undertaken to comply with the same during the trial, this Court deems it appropriate to allow the present petition for grant of regular bail to the petitioner and the order dated 13.12.2019 passed by the Coordinate Bench of this Court granting the interim bail to the petitioner is made absolute.

In view of the above, the present petition is allowed and the interim bail granted vide order dated 13.12.2019, is made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

25.10.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No