(217) IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9119-2022
Date of Decision: 30.08.2022

Nazim

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Chatrath, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.0031 dated 31.08.2021 (Annexure P-1) registered under Sections 406 and 420 IPC and (Sections 419, 467, 468, 471 and 34 IPC, 1860 was added later on) with Police Station Cyber Crime South Range, Rewari, Haryana.

2. The brief facts of the case are that Bhupendra Singh son Uday Raj got recorded his statement to the effect that he along with his partner Rakesh Kumar had formed a registered firm Sai Polypack and Trading Co. at Rewari and they had an account bearing No.50097160298 of Indian Bank and his partner Rakesh Kumar had registered his mobile phone number with the account of the bank. On 29.08.2021, at about 11.00 AM they found that the above-said mobile phone was showing that it was out of network. On 30.08.2021, they got issued a fresh SIM of the above-said mobile phone. On 31.08.2021 when they checked their bank account on net banking they found

that their bank balance was short. Thereafter they went to the bank for checking their balance and there they came to know that on 29.08.2021 a sum of Rs.12 lakhs and on 30.08.2021 a sum of Rs.8 lakhs was deducted from the bank account without an OTP having been received on the registered mobile phone. On the basis of the said complaint, the FIR came to be registered. During investigation the Police came to know that the petitioner had opened a fake account on the fake ID of one Gulzar Umarkhan son of Karim Umarkhan resident of Char Darwaja, Jaipur and the petitioner had pasted his own photograph and obtained an ATM Card from the concerned bank of this account and in this way, he had withdrawn a total amount of Rs.20 lakhs from the bank account of the complainant's firm through the ATM Card fraudulently.

3. The learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The offences alleged to have been committed by him are triable by a Magistrate. He is in custody since 07.11.2021 and none of the 11 prosecution witnesses had been examined and therefore, the trial was not likely to be concluded in the near future. He thus, prays for the grant of regular bail.

4. On the other hand, the learned State counsel contends that the petitioner knew the registered bank mobile number of the complainant-firm got issued the duplicate SIM of the registered mobile number after forging the KYC and thereafter got withdrawn a sum of Rs.20 lakhs from the bank account of the complainant-firm by using a fake ATM Card. He further contends that during interrogation 64 forged ID cards of different persons 16 cheque books of different fake accounts and 19 fake ATM Cards were

recovered from the possession of the petitioner. He thus, prays that the petitioner ought not to be granted the concession of regular bail.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, the petitioner is in custody since 07.11.2021. The investigation stands completed and none of the 11 prosecution witnesses have been examined so far. The petitioner is a first-time offender with clean antecedents. Even otherwise, the case is triable by the Court of a Magistrate. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Nazim son of Nanhe is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that he is not involved in any other crime other than the case mentioned in this order.

9. In addition, the petitioner shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

30.08.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No