

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-12788-2022

Date of Decision:-08.09.2022

Mujeeb.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sumit Kumar, Advocate for
Mr. Baljeet Beniwal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under section 439 Cr.PC is for the grant of regular bail in case FIR No.50 dated 16.11.2021 under Sections 419 and 420 IPC (later on Sections 201, 120-B IPC and Sections 66, 66D of IT Act, 2000 were added) registered at Police Station Cyber Crime, Faridabad.

The brief facts of the case are that FIR came to be registered at the instance of complainant who stated as under:-

“ To The SHO P.S. Cybercrime, Faridabad Subject: Complaint against unknown person for cheating of Rs.94,940/- (Ninety Four thousand nine hundred forty only) by using my credit card no.4412854998175008 of Indusland Bank valid upto 01/2024. Today on dated 12.08.2021 occurrence of one transaction at 10.51 am for Rs.49,490/- and the second one at

10.54 of Rs.45,450/- by hacking my mobile phone number 9250100005. That, I received this information by way of MSG coming to my mobile no.9250100005 from the respective bank, which is a surprise to me as I the card holder did not use the credit card today on 12.08.2021 for any purpose. That this is a cheating cyber fraud done to my credit card its use. I, therefore, request you to register a complaint of cheating fraud done in my credit card for the rupees Rs.94,940/- (Ninety four thousand nine hundred forty only) under relevant provisions of Indian Penal Code as well as Information Technology Act, 2000. Supporting documents of the case is attached for your perusal. Regards, Yashpal Singh H.No.792, Sector 16, Faridabad (Mobile No:9250100005) Enclosure : 1. Photocopy of the credit card 2. message of the bank 3. Aadhar Card of credit card holder..... Police proceedings”

Pursuant to the registration of the FIR during the course of investigation Rohit was arrested and from his possession cash, cheque books, passbooks, Debit Card of account no.50100061367577 and mobile phone no.9871384405 was recovered. Pursuant thereto on his disclosure statement, co-accused Amanulla @ Guddu son of Abdul Salam was arrested on 05.12.2021 and got recovered his share of amount and empty phone boxes. Thereafter the present petitioner-Mujeeb was was arrested on 08.12.2021 who is alleged to have issued the SIM Card no.7830450979 used in the commission of offence issued by mobile phone no.9761261161 and Rs.500/- was recovered from him. On destruction of mobile phone used in the commission of offence, section 201 IPC was added.

During the course of further investigation, Rohit, Imran and Vikas Jhan were arrested, who suffered their disclosure statements and disclosed that they had committed online fraud and withdrawn a sum of Rs.94,940/- in two transactions on 12.08.2021 from the account of the

complainant by hacking his mobile no.9250100005. Himanshu, Bharat, Irshad, Sumit @ Polu have not been arrested so far. Thus, the allegations against the petitioner are that being a Point of Sell (POS) agent of Vodafone company he used to sell and issue SIM cards to customers by activating the SIM through his mobile number 9761261161.

The Counsel of the petitioner contends that the petitioner has not been named in the FIR and there is no link evidence against the petitioner to connect him with the offence. He contends that no amount was received in the account of the petitioner. Therefore, he could not be held to be liable for commission of the offence in question. Even otherwise, a compromise has been effected between the parties, which is borne out from the affidavit dated 22.03.2022 (Annexure P-1). The petitioner is in custody since 12.12.2021 and none of the 18 prosecution witnesses have been examined so far. Therefore, the trial of the case is not likely to be concluded in near future and, thus, the petitioner deserves the concession of regular bail.

The Counsel for the State on the other hand contends that offences of this kind are on the rise. The petitioner is a equal party to the alleged commission of offence. The factum of compromise having been arrived at between the parties would not lesser the gravity of the offences committed by the petitioner in connivance with the co-accused. He thus contends that the petitioner does not deserve the concession of regular bail.

I have heard counsel for both the sides at length.

Admittedly, the petitioner is in custody since 12.12.2021. None of the 18 prosecution witnesses have been examined so far. The petitioner is a first time offender and no other case has been registered against him.

This Court in *CRM-M-24033-2021(O&M)* titled as *Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab* Decided on **31.08.2022** held that in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. In the present case there is nothing to suggest that the petitioner is likely to flee from justice, tamper with evidence or threaten the witnesses. Therefore, the further incarceration is not required.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner-**Mujeeb** son of Sh. Arman Ali Khan 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.

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 present case.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 08, 2022
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No