IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14717-2022 (O & M)
Date of decision: 31.05.2022

Sunny Kumar .... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pradeep Chokar, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

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JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for grant of the regular bail to the petitioner in a case FIR No.263 dated 29.10.2021 under Sections 379 and 420 IPC registered with Police Station Pillu Khera, District Jind.

2. The brief facts of the case are that the present FIR came to be registered on the complaint of Satish Kumar son of Rameshwar, resident of Morkhi Police Station Pillukhera, with the allegations that he was running a mobile repair shop in the name of Rajesh Mobile Point at Pillukhera. The petitioner/accused Sunny who is an agent of SBI Bank made a phone call at his shop on 19.08.2021 that he shall get issued a credit card for the complainant and for that purpose the complainant has to download his Aadhar Card in his phone and thereafter, the credit card would be prepared on video call only. On that, the complainant downloaded his credit card on his phone but for about 1½ hour no credit card was issued. It was also not

issued on the next date i.e. 20.08.2021. Thereafter, the complainant asked Sunny, the present petitioner to come to his shop and download the same. Sunny came to the shop and stated that it could not be downloaded on his phone. After 2-3 days, one unknown person came with Sunny and thereafter, a video call was made. It was told by that person who made the video call that he got issued a card of the complainant and he would receive two calls for confirmation. Sunny disclosed to the complainant that he has to deposit Rs.8800/- in the Bank for insurance plus GST. The complainant disclosed him that he has already having a credit card of HDFC and did not need same. Then the petitioner-sunny replied that the complainant may not activate the card and when he will receive the card, he may make a call to him (Sunny), who would send an email from his mobile and the insurance would be removed from the card and card would be activated. Thereafter, the complainant received the card on 27.08.2021. He made a telephonic call to Sunny to come to his shop on 01.09.2021 alongwith another person. He started the process of email from the mobile of the complainant which continued for about 1½ hour. In the meantime, the complainant became busy due to customers. The petitioner took the mobile phone and card from the complainant. He had made a transaction of Rs.74574/-, second transaction of Rs.8400/- and third transaction of Rs.8820/-, and thereafter, they went away for taking tea. They told the complainant not to use the card as the insurance could not be removed. He would come on some other day and would start the card. He removed all the messages from the phone of the complainant due to which the complainant could not come to know about the transactions. On 13.09.2021, Sunny-petitioner/accused again came to the complainant and asked whether the complainant replied to any mail. The complainant replied that he did not know about the same and asked Sunny to check the phone himself. He took the mobile phone of the complainant and asked him that whether he (complainant) made any transaction with HDFC, to which the complainant replied in negative. He (Sunny) took the card of HDFC from the complainant and worked for about one hour on his mobile, which the complainant did not notice due to his customers. Two more transaction of Rs.8708/- and 8400/- were made and the messages and mails were deleted. Thereafter, the complainant received a message and a bill of Rs.1,22,383/- from SBI and Rs.53,353/- from HDFC. On being asked, Sunny-petitioner informed the complainant that it had happened due to mistake and the complainant did not have to pay anything. The complainant made a telephonic call to the petitioner who said that he was appearing in an exam at Dehradun because of which his phone was switched off but he would get the account of the complainant corrected. However, the same was not done. Therefore, the complainant had to deposit a sum of Rs.1,22,383 on 12.10.2021. Thus, the petitioner had committed a fraud with the complainant to the extent of Rs.1,39,483/-.

3. The learned counsel for the petitioner submits that the petitioner is in custody since 16.12.202. He further contends that the prosecution version is contradictory as different figures have been mentioned in the FIR regarding the amounts, allegedly defalcated by the petitioner. He contends that the recovery of Rs.1,22,000/- has already been effected from the petitioner and since the investigation has been completed, the further incarceration of the petitioner is not required.

4. The learned State counsel while referring to the reply dated 21.05.2022 submits that such kind of cyber crimes are on the rise and mere period of incarceration would not be a ground to grant bail to the petitioner. However, he does not deny that the challan has been filed and none of the 09

prosecution witnesses have been examined so far. He further submits that the petitioner is also involved in one other case bearing FIR No.271 dated 16.11.2021 under Sections 420 and 379 IPC with Police Station Pillukhera, Jind.

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

6. The petitioner is in custody since 16.12.2021 and the report under Section 173 Cr.P.C. already stands submitted. As many as 09 prosecution witnesses have been cited in the list of witnesses and none of them has been examined so far. Thus, apparently, the trial in the present case is not likely to be concluded in the near future.

7. In view of the above and the period of custody undergone by the petitioner, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sunny Kumar, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

May 31, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No