IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) **CRM-M-52664-2018** (O&M)

Rajesh Kumar Bardia ...Petitioner

Versus

U.T. Chandigarh ...Respondent

(2) **CRM-M-39618-2020** (O&M)

Dushyant Sabharwal ...Petitioner

Versus

U.T. Chandigarh ...Respondent

Date of Decision:- 21.11.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Tanu Bedi, Advocate for the petitioner in CRM-M-52664-2018.

Dr. Anmol Rattan Sidhu, Senior Advocate with Mr. Prathan Sethi, Advocate for the petitioner. in CRM-M-39618-2020.

Mr. Amit Kumar Goyal, APP for U.T. Chandigarh.

Mr. Nakul Sharma, Advocate for respondent No. 2 in CRM-M-39618-2020.

*****

GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions filed on behalf of Rajesh Kumar Bardia and Dushyant Sabharwal seeking grant of anticipatory bail in a case registered vide FIR No. 124 dated 24.4.2018 under Sections 420, 406, 120-B IPC and Section 66 of Information Technology Act, 2000 at Police Station Sector-17, Chandigarh.

2. The FIR was registered at the instance of Amardeep Singh wherein it has been alleged that the accused namely Amit Bhardwaj, Ajay Bhardwaj, Ashish Dabas, Pankaj Adlakha, Rupesh Kumar Singh and Vikaas Kadian connived with each other to dupe the complainant and made him part with his hard earned money running into lacs by pursuading him to invest him in a Multi-Level Marketing (MLM) ponzi scheme Gainbitcoin, marketed by M/s Variable Tech, Singapore founded by Amit Bhardwaj. It is alleged that the complainant and other similarly situated persons were promised a lucrative return of 10 percent per month continuously for a period of 18 months on their investments made in said 'bitcoins' (crypto currency). The accused had assured the complainant that their company was an authorized miners of Bitcoins in India, having pan-India operations and that the entire business was legal. Thus, the complainant was induced to believe by the petitioner Vikaas Kadian and other accused that his investment would yield 180 per cent profit within 18 months from the date of investment. It is alleged that the accused Amit Bhardwaj gained the confidence of the complainant while representing that his companies were constantly doing Bitcoin mining and that he was CEO of M/s Amaze Mining and Block Chain Research Limited and GB Miners and had a majority stake in Mineral Mining Company in the United Arab Emirates (UAE). The accused further claimed to be India's first Bitcoin e-wallet called 'Coinbank'. Upon such assurances and representations made by accused including the petitioner, the complainant registered himself on the website of the accused through www.gainbitcoin.com and the complainants Amardeep Singh and Manoj Garg invested an amount of ₹ 30 lacs and ₹ 15.5. lacs for purchase of

Bitcoins. However, the complainant did not receive any single Bitcoin (BTC) in return for their investment. It is further alleged that subsequently, the accused induced the complainant to invest in another crypto currency called M-CAP, which was in the nature of a mutual fund for crypto currencies, which according to the accused was likely to gain more popularity than Bitcoins and give much higher yields and financial gains. It is alleged that the accused then changed the contract conditions and further made the complainant invest further in one 'Lifelong Etherium Mining Contract' for at least 24 months, which was stated to get maximum returns but even the said promise did not materalize. The complainant, thus, alleged that he had been duped of huge amount by the accused.

3. The learned counsel representing the petitioner – Rajesh Kumar Bardia has submitted that the police during investigation has not been able to collect any substantial evidence to show that he had any effective role in defrauding people and that the only piece of evidence on which the police is banking is in the shape of a diary stated to have been recovered from the petitioner – Rajesh Kumar Bardia wherein there is a mention of an amount of ₹30 lacs against the name of one Amardeep Singh whereas the authenticity in respect of the said entry has not been established and it cannot be said that it is the petitioner – Rajesh Kumar Bardia who had received or pocketed any such amount.

4. The learned counsel representing the petitioner – Rajesh Kumar Bardia has further submitted that the petitioner had been granted interim bail by this Court vide order dated 1.3.2019 and ever since he has been on interim bail and has never misused the same till date i.e. during the last more than 3

years and that otherwise he had remained behind bars previously for about more than 8 months and 27 days.

5. The learned counsel for the petitioner - Dushyant Sabharwal has submitted that admittedly he was merely a broker who had acted as a go-between the investors and owners of the company which was owned by co-accused Ajay Bhardwaj and Amit Bhardwaj who are infact the main accused and that the petitioner was merely getting commission in respect of the investments made by the investors like complainants and that he has no share whatsoever in the company owned by co-accused. It has further been submitted that the petitioner - Dushyant Sabharwal had no clue whatsoever as to whether the persons at the helm of affairs of the company which had launched the said scheme did not have good intentions or were going to defraud investors. It has been submitted that the petitioner, in any case, has been behind bars for a substantial period of more than 2 years and 2 months and as such, deserves the concession of bail.

6. Opposing the petitions, the learned State counsel has submitted that the role of petitioner Dushyant Sabharwal cannot be undermined by referring him to be as a mere broker since it was pursuant to his allurments that innocent investors came forward to invest in the schemes and who were ultimately deprived of the said amount. It has further been submitted that since the petitioner had also been declared a proclaimed offender at one stage, there is every possibility that in case granted bail, he is likely to flee from justice. The learned State counsel has, however, informed that the petitioner - Dushyant Sabharwal happens to be involved in one more identical case in the State of Punjab.

7. The learned State counsel has further submitted that even the petitioner – Rajesh Kumar Bardia had played a pivotal role in handling the investments inasmuch as during the course of interrogation a notebook titled *'Rokra'* was recovered from his possession and upon checking the said notebook it was found that there was an entry dated 17.3.2017 at page 57 in respect of an amount of Rs. 30 lacs regarding Amardeep Singh. The said entry is alleged to be in the handwriting of the petitioner Rajesh Kumar Bardia. Further, during interrogation, he disclosed that he had received and transferred huge amount on behalf of co-accused Amit Bhardwaj, Vivek Bhardwaj and Sanchit Alagh through RTGS/NEFT/IMPS in the bank accounts No. 031605501216 of ICICI Bank of Golden Overseas and No.4109135000012388 of Karur Vyasya Bank, though he does not know about the actual holders of the said accounts.

8. The learned State counsel has, however, informed that while the petitioner Rajesh Kumar Bardia, prior to grant of interim bail had remained behind bars for about 8 months, the petitioner – Dushyant Sabharwal has been behind bars since the last more than 2 years and that as on date 3 out of 14 prosecution witnesses have been examined.

9. This Court has considered rival submissions addressed before this Court.

10. From the evidence collected by the investigating agency, the complicity of the petitioners is *prima facie* evident. However, this Court finds that the petitioner- Dushyant Sabharwal has been behind bars for a substantial period of more than 2 years, the petitioner – Rajesh Kumar Bardia has remained behind bars for about 8 months and has never misused the concession of

interim bail during the last more than 3 years. Conclusion of trial is likely to consume substantial time. In these circumstances, further detention of the petitioners will not serve any useful purpose.

11. Both the petitions, as such, are accepted and the petitioners are ordered to be released on regular bail on their furnishing heavy bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12. It shall be open to the Trial Court to impose any such conditions, as deemed appropriate, so as to ensure regular appearance of the petitioners before the trial Court on the dates, as may be fixed.

13. A photocopy of this order be placed on the file of connected case.

21.11.2022 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No
Whether Reportable Yes / No