IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of Decision:-29.09.2022

CRM-M-29804-2022

Ankit @ Fauji.

......Petitioner.

Versus

State of Haryana.

......Respondent.

AND

CRM-M-41009-2022

Mikdar @ Mikka.

......Petitioner.

Versus

State of Haryana.

......Respondent.

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

Present:- Mr. Vikas Bishnoi, Advocate for the Petitioner
(in both petitions).

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

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JASJIT SINGH BEDI, J. (ORAL)

By this common order I shall dispose of both the aforementioned petitions as they have arisen out of one and the same FIR.

The Prayer in these petitions under section 439 Cr.PC is for the grant of regular bail in case FIR No.84 dated 25.03.2022 under Sections 420, 467, 468, 471 IPC and Sections 66(C) and 66(D) of Information Technology Act, 2000 (but during investigation Sections 35(a), 35(h), 35(i) and 36 of Haryana Parivar Pehchan Act, 2021 have been added) registered at Police Station Bhuna, District Fatehabad.

The present FIR came to be registered on the basis of a complaint sent by Additional Deputy Commissioner-cum- Citizen Resources Information Officer, Fatehabad to the SHO praying for legal action to be taken against the fraudulent operator VLE Ravinder Kumar. It was stated that the Chief Executive Officer Haryana Parivar Pehchan Authority had issued a letter no.1/26-22-hpaa dated 23.02.2022 with the instructions that an FIR has to be lodged against VLE Ravinder Kumar who was working as C.S.E. at Ward no.10 Bhuna City, District Fatehabad. It was stated that action should be taken according to law.

Pursuant to the registration of the FIR the investigation of the case was conducted by Inspector Kuldeep Singh and during investigation it was found that the Parivar Pehchan Patra (hereinafter referred to as PPP) contains the detail of annual income of each member and according to the income of the PPP many facilities are provided by the Haryana Government to the eligible families and while making the family ID, the details of income are recorded by the government after verifying the source of the income of the family. For reduction of income in the family identity card an application is made online after which there is a provision to reduce the income in the family identity card after re-verification of the source of income of the family by a Special Committee. However, the family identity card was issued by the accused in order to reduce the income in the family by ignoring the above legal provisions. The act of reducing the annual income in the family identity card was found to be done in an illegal manner by bypassing the system based OTP process prescribed by the Government due to which ineligible people were also getting the benefit of the Government facilities.

During investigation on 27.03.2022 the co-accused Ravinder Kumar, Ansh Girdhar and Sunil were joined in investigation and were arrested. They suffered their disclosure statements regarding their involvement in the present case. Ravinder Kumar disclosed that he ran a CSC Centre in the name of Jansewa for about 07 years and the co-accused Ansh Girdhar worked as Data operator at the Centre. He disclosed that high income customers came to their centre to change the income of their family ID to take advantage of the government facilities for low income citizens and also to get changes in the date of birth etc. He further disclosed that co-accused Ansh had told him that one Sunil Sharma and Mika (petitioner in CRM-M-41009-2022) had a formula to reduce income by adopting illegal means. Subsequently Ansh had wrongly changed his annual income in his family ID. Similarly the annual income was reduced for one Arun Mahendru.

Similar facts were disclosed by Ansh Girdhar as well. Thereafter mobile phones and computers etc were got recovered from the accused.

Sunil also got recorded his disclosure statement wherein he named Mika and the other accused such as Ansh, Arun Mahendru, Sandeep and recovered were effected from Sunil.

During further investigation on 04.04.2022 Mikdar @ Mikka was arrested and he suffered disclosure statement regarding his involvement in the present case. He also named the other accused such as Sunil Sharma, Ansh Girdhar and Ravinder Kumar and got recovered his laptop and cash.

During further investigation on 19.04.2022 the petitioner-Ankit

@ Fauji (in CRM-M-29804-2022) was arrested and suffered his disclosure statement regarding his involvement in the present case. He stated that he was known to the co-accused Mikdar @ Mikka and he used to do cleaning work in the CSC Centre of Mikdar @ Mikka for which he received Rs.9,000/- per month. He also stated that he knew one Somil Girdhar and disclosed the manner in which the offence was committed.

Likewise other co-accused were arrested from time to time during the course of investigation into the offence. It was found that the accused had helped a number of persons to reduce their income in the Government records to get certain government facilities thereby causing loss to the public exchequer.

With respect to the petitioner-Ankit @ Fauji the counsel contends that he has been named in the disclosure statement of his co-accused Mikdar @ Mikka. The said disclosure statement has no evidentiary value. The investigation stands completed and the report under Section 173 Cr.PC submitted. The offences were triable by the court of a Magistrate and since the petitioner was in custody since 19.04.2022 and none of the 18 prosecution witnesses has been examined so far, the further incarceration of the petitioner is not required, more so when the co-accused Ansh has been granted the concession of bail by this Court vide order dated 15.09.2022.

With respect to Mikdar @ Mikka the counsel raised similar arguments contending that the petitioner was arrested on the basis of disclosure statement of his co-accused Sunil which had no evidentiary value in the eyes of law and since the petitioner was in custody since 4.4.2022 and the case was triable by the court of Magistrate, the further incarceration was not required.

The Counsel for the State submits that a serious offence has been committed whereby loss has been caused to the public exchequer by hacking of the government portal and such kind of cyber crime are on the rise and, therefore, the petitioner is not entitled to the grant of bail. He however does not dispute the period of custody undergone by the petitioner as also the fact that none of the prosecution witnesses have been examined so far.

I have heard counsel for both the sides at length.

Admittedly, the petitioners are in custody since 19.04.2022 and 04.04.2022 respectively. None of the 18 prosecution witnesses have been examined so far. The co-accused of the petitioners namely Ansh has been granted the concession of bail by this Court vide order dated 15.09.2022. This Court in case bearing ***CRM-M-24033-2021(O&M)*** *titled as* ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab*** *Decided on* ***31.08.2022*** has held that in cases triable by the Magistrate unless there are serious allegations of accused absconding from trial, or tampering with the evidence, bail should be declined only in exceptional circumstances. In the present case, nothing specific has been pointed out by the learned State Counsel as to whether the petitioner would abscond or tamper with evidence if granted bail.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioners-**Ankit @ Fauji** son of Sh. Raj Kumar (in CRM-M-29804-2022) and **Mikdar @ Mikka** son of Sh. Randhir Singh (in CRM-M-41009-2022) are ordered to be released on bail subject to their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

In addition, the petitioners shall prepare an FDR in the sum of Rs.1,00,000/- each 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 either of the petitioners from trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 29, 2022
Vinay

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