

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-31723-2022 (O & M)

Date of decision: 28.07.2022

Shyam Lal @ Shyam Lal Rajput and ors.

.... Petitioners

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioners.

Mr. Amit Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioners in case FIR No.95 dated 07.03.2022 under Sections 379, 420 IPC (Sections 120-B, 201, 467, 468, 471 IPC and Section 66-D of Information Technology Act, 2008 added later on) registered with Police Station Sadar Hansi, District Hisar.

2. The brief facts of the prosecution case are that on 07.03.2022 the complainant Baljeet son of Shivilal, resident of village Data presented an application wherein it has been mentioned that he was an agriculturist. On 02.02.2022, he received a message on his mobile No.98131-69059 from Bajaj Finance regarding PM Jandhan Yojna, loan on interest @2% with 30% subsidy. Thereafter, on 07.02.2022, the complainant saw that message and contacted mobile No.08109406894 and asked regarding the loan. After that the complainant received a call from the other side who said that he was speaking from Bajaj Finance. After that they sent some papers on his mobile

for signing the same. Being an illiterate person, he signed those papers and sent them through whatsapp. After that, Rs.4500/- were demanded from him through PhonePe as file charges and he sent that amount through PhonePe at No.8109981260. The complainant further alleged that the said unknown persons by playing fraud cheated him and got transferred from him through PhonePe an amount of Rs.21700/-, 20500/-, 45000/-, 30975/-, 15900/-, 19000/-, 36666/-, 30000/-, 25000/-, 6665/- total amount to Rs.3,84,000/- and now were demanding more Rs.32,000/- from him.

On this, the present FIR was registered. Investigation was initiated. During investigation, documents and screen-shots, details of the account number and statement of account were taken into possession. With the assistance of the Cyber Cell, location of mobile No.8003741175 was obtained. During investigation, accused Bhim @ Rohit, petitioners-accused Anju Lal, Shyam Lal and Monu Kumar were arrested. During interrogation, 8 mobiles were taken into possession, details of statements of account and five copies of details of mobile numbers were taken into possession. During further investigations, Sections 467, 468, 471 and 120-B IPC were added and then Section 201 IPC and Section 66-D of the Information Technology Act were also added.

3. The learned counsel for the petitioners contends that the petitioners are not named in the FIR. He contends that as per the challan, the total fraud committed upon the complainant is for a sum of Rs.3,84,000/- out of which, a recovery of Rs.2,40,000/- already stands effected from the accused-petitioners. He contends that as per the transaction IDs which had been collected by the police during investigation, the alleged amount had been deposited in the account of Dinesh Kumar Garasiya, and therefore, no

petitioners are in custody since 26.03.2022. The investigation stands completed and none of the 28 prosecution witnesses have been examined so far. Thus, the trial is not likely to be concluded in the near future. He prays for the grant of regular bail to the petitioners.

4. The learned State counsel, on the other hand, contends that such kind of cyber offences are on the rise and, merely, because the report under Section 173 Cr.P.C. stands presented and the petitioners have undergone some period of incarceration, they ought not to be granted the concession of regular bail.

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

6. Admittedly, the petitioners are in custody since 26.03.2022. The investigation stands completed and none of the 28 prosecution witnesses have been examined so far. The petitioners are first-time offenders and, in any case, the case is triable by the Court of the Magistrate. There is nothing to suggest that the petitioner will either flee from justice, tamper with the evidence or pressurize witnesses. Therefore, the triple test as laid down by the Hon'ble Apex Court in "***P. Chidambaram versus Directorate of Enforcement, 2020 AIR (SC) 1699***", is prima facie satisfied. The trial is not likely to be completed in the near future, and therefore, the further incarceration of the petitioners is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioners, namely, Syam Lal @ Shyam Lal Rajput, Monu Kumar and Anju Lal @ Anju Lal Od, are ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

In addition, the petitioners shall prepare FDRs in the sum of

would be liable to be forfeited as per law in case of the absence of the petitioners from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

July 28, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No