

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

CRM-M-35419-2022 (O & M)

Date of decision: 18.08.2022

Bheem @ Rohit @ Bhim Rampal Rajput

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Parveen 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 petitioner 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 Bheem @ Rohit (the present petitioner), his co-accused Anju Lal, Shyam Lal and Monu Kumar were arrested (since granted bail by this Court vide order dated 28.07.2022 passed in CRM-M-31723-2022). During interrogation, 08 mobiles, 05 SIM Cards and 5 ATM Cards were taken into possession. 05 notebooks in which details of mobile numbers and bank account numbers of various persons were mentioned were also 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 petitioner contends that the accused-petitioner is 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 co-accused and Rs.1,15,000/- from the petitioner-Bheem

collected by the police during investigation, the alleged amount had been deposited in the account of Dinesh Kumar Garasiya, and therefore, no liability could be affixed upon the petitioner. It is lastly contended that the petitioner is in custody since 26.03.2022. The investigation stands completed and none of the 28 prosecution witnesses have been examined so far. The co-accused, namely, Shyam Lal @ Shyam Lal Rajput, Monu Kumar and Anju Lal @ Anju Lal Od, have been granted bail by this Court vide order dated 28.07.2022 (Annexure P-1). Since, the trial is not likely to be concluded in the near future, therefore, he prays for the grant of regular bail to the petitioner.

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 petitioner has undergone some period of incarceration, he ought not to be granted the concession of regular bail.

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

6. Admittedly, the petitioner is in custody since 26.03.2022. The investigation stands completed and none of the 28 prosecution witnesses have been examined so far. The petitioner is 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 petitioner is not required.

7. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Bheem @ Rohit @ Bhim Rampal Rajput, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

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

(JASJIT SINGH BEDI)
JUDGE

August 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No