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

**CRM-M-44211-2022 (O & M)**
**Date of decision: 01.12.2022**

Akhlak @ Akhlaq .... 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. Neeraj Poswal, AAG, Haryana.

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**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 FIR No.127 dated 31.03.2022 under Sections 420, 467, 468, 471, 120-B IPC and Section 66-D of Information Technology Act, 2008 registered at Police Station, Urban Estate, Hisar, District Hisar.

2. The present FIR came to be registered on a complaint dated 31.03.2022 and the contents of the same are as under:-

> "*To, Sir, the brief facts of the case are that on 31.3.2022 a complaint was received through post in the police station from the office of Superintendent of Police, Hisar, which is as follows:- To, S.P. Police, Hisar, Subject: Legal action be taken against The Coalition of Small and Medium Enterprises Professionals Add-4126 South West FWY, Houston-USA Tx77027 webpage www.csmep.org, email-secretarycsmepro.org*

*Coalitionmegmail.com fax- 17139794484, Tel-17l39794376 Nam Jerry cook, Indian-Tejpal Bank svc Co-operative bank Ltd. Nehru Palace New Delhi Account No. 125003l30003959 IFSC-SVCB-0000250 PA No.FEPPP1596N for making fake Visa, fraud, for grabbing money from youth in the name of registering them for a conference and sending them to America by committing cyber cheating and for downloading and sending fake letters of Ken Paxton Attorney of US Bureau of Immigrant Affairs visa Authorization Section P.O. Box 3476 Austion Tx 75070 United State ATTN showing fake documents as original and for committing cyber crime by creating gang. Sir, it is requested that applicant Mohit Kumar Jain cyber/forensic Expert son of Sh. Ashwani Kumar Jain, am permanent r/o H.NO.518 Govind Nagar Behind 70 MC colony, Hisar and submits as under"- The applicant is resident of above said address. That applicant received an e-mail regarding a conference being held at the above mentioned address in USA, where big businessmen would be meeting. That for the conference, you will be given air tickets and visa issued by Ken Paxton, Attorney USA. Send all your documents on this email ID. That the applicant after believing the same sent all his documents on the above said mail ID. That after sending the documents, a message was received on the mail that Rs.209595 I.e. 2760 American Dollars need to be sent for insurance. After which USA visa and air tickets will be sent. That after this series of events the applicant who is a cyber field expert developed suspicion that clever people of India are involved in* *this Firm which is misguiding the Indian people and committing fraud. Therefore, the applicant tracked the IP address on Google and found out that it was fake and other documents are also fake. That the applicant shall take the police to all the criminals, if he will be Called for support in police investigation. That it is a gang of cyber criminals, who trap the less educated people of India who want to make a career in USA and sharp mind people of America are grabbing the money from Indian people. That a cyber expert team be constituted and the gang be arrested under the leadership of well educated DSP as soon as possible, so that lacs of Indians and people of Haryana can be saved from this fraud. Dated 4.3.2022, thanking you Sd/- Mohit Kumar Jain cyber/forensic Expert son of Sh. Ashwani Kumar Jain, am Permanent r/o H.No. 518 Govind Nagar Behind 70 MC Colony, Hisar Mobile 9467989089….. Police Proceeding".*

Pursuant to the registration of the FIR, firstly, one Tejpal was arrested on 31.03.2022 and got an amount of Rs.300/- and two mobile phones make LAVA alongwith a SIM card recovered. He suffered a disclosure statement stating that in his Mohalla one Chhotu Muslim ran a photostat and mobile phone shop. The said Chhotu told him that he and Aklakh (the present petitioner) were in contact with Nigerian persons. They would open separate accounts of different people, providing the details to the Nigerian persons who after alluring different people for sending them abroad get deposited money in the bank accounts. 10% commission was paid to Chhotu and Aklakh (the present petitioner). Six months ago, Chhotu and Aklakh (petitioner) had together got 4/5 accounts opened in separate banks and cheque books, pass books, ATM card and SIM card number 9810826552 attached to the bank were given to Chhotu. Chhotu and Aklakh (petitioner) had given these bank account details to the Nigerians. All of them looted money from the general public. In March, 2022, he had demanded Rs.209595/- from Mohit (present complainant). On 31.03.2022, he had come to Hisar to take the same from Mohit from where he was arrested.

As per the disclosure statement, co-accused Sajid Ansari @ Chhotu and the petitioner-Aklakh came to be arrested. From the search of Sajid Ansari @ Chhotu, cash of Rs.100/-, one mobile phone make VIVO, 2 SIM Cards of Airtel and one Aadhar Card No.5041-3149-1144 of co-accused Tej Pal, one Aadhar Card No.54934-8537-2263 of one Seema C/o Tej Pal, one PAN card No.FEPPP1596N, 5 ATM/Debit Cards, 4 cheque books were recovered and from the search of the petitioner-Aklakh, one cheque book and 19 ATM and debit cards of different banks were recovered. The whereabouts of Thomas Nigerian could not be known.

Pursuant to the completion of the investigation, a report under Section 173 Cr.P.C. was presented against the petitioner-Aklakh, Tejpal and Sajid Ansari @ Chhotu on 10.06.2022.

3. The learned counsel for the petitioner contends that the petitioner is not named in the FIR. In fact, no offence as alleged has been committed by him. The petitioner has been named in the disclosure statement of his co-accused Tej Pal. The recoveries allegedly shown from him have been foisted upon him and cannot connect him with the offence in question. The case was otherwise triable by the Court of a Magistrate and since the petitioner is in custody since 03.04.2022 and only 01 out of 09 prosecution witnesses have been examined, the further incarceration of the

petitioner was not required as the Trial of the present case was not likely to be concluded anytime soon.

4. The learned counsel for the State, on the other hand, contends that the offences of this kind are on the rise. The petitioner and his co-accused are equal participants in the commission of the offence, and therefore, he (petitioner) does not deserve the concession of bail. He, however, does not deny the period of custody undergone by the petitioner, the stage of Trial as also the fact that the petitioner is a first-time offender.

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

6. The allegations against the petitioner and his co-accused are grave. However, the said allegations would be substantiated during the course of Trial. The petitioner is in custody since 03.04.2022 and only 01 out of 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. 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 the accused absconding from trial, or tampering with the evidence, bail should only be declined in exceptional circumstances. In the present case, nothing exceptional has been pointed out as to why bail ought to be declined to the petitioner. Neither has the State expressed any serious apprehension of either the petitioner being a flight risk or likely to tamper with the evidence if he was granted the concession of bail.

7. Keeping in view the afore-mentioned facts, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Akhlak @ Akhlaq is

ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one.

10. In addition, the petitioner (through someone else) shall prepare an FDR in the sum of Rs.2,00,000/- 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**

**December 01, 2022**
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No