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

CRM-M-44238 of 2022
Reserved on: 19.12.2022
Date of Pronouncement: - 23.12.2022

Akash Sharma

......Petitioner

Versus

State of Haryana

......Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. R.S. Mamli, Advocate, for the petitioner.
Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J.

At the outset, learned counsel for the petitioner submits that Sections 201, 467, 468 and 471 IPC have been added later on in the present FIR, therefore, the same could not be mentioned in the petition. Learned State counsel does not dispute this fact.

On the oral request of learned counsel for the petitioner, Sections 201, 467, 468 and 471 IPC are added in the petition. Registry is directed to make necessary correction in the petition.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.0267 dated 17.05.2022 under Sections 406, 420, 506, 120-B IPC (Sections 201, 467, 468 and 471 IPC added lateron) and Sections 3, 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, registered at Police Station Hisar Civil Lines, District Hisar.

CRM-M-44238 of 2022

In terms of order dated 29.09.2022, learned State counsel has filed status report which is taken on record.

FIR in the present case was registered on the complaint made by the complainant, who stated that accused persons by calling the complainant on telegram fraudulently induced him by saying that they have an app. namely WinMoney which is Android link chain app. and same was approved by Government of India. It deals in chit fund scheme and that numerous persons have invested their money in this scheme. The complainant was fell in the trap and he made four IDs as mentioned in the FIR. He deposited a sum of Rs.12 to Rs.15 lacs in the said IDs from different bank accounts. For sometime the complainant was paid commission but later on when the complainant checked the app. he came to know that the payment was stopped and his IDs and accounts were blocked. Later on the complainant received a telephone call on telegram that if the complainant deposits Rs.80,000/- in their account, his payment in WinMoney app. will be paid to him. However, the complainant told him that the complainant has already deposited his entire amount in WinMoney app. and he was not left with anything more. Said person gave his mobile No. 9773524619 to the complainant and thereafter he gave ID Guruji.ji12@ybl to the complainant and asked the complainant to deposit the amount in the same. Later on when the complainant talked to one Aena on telegram, he was told that they defrauded people through WinMoney app. and the complainant could do whichever he wanted.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case whereas he was not involved in the alleged commission of offence. Petitioner was neither named in the FIR nor any role has been attributed to him. He has been implicated during the course of investigation. The petitioner in his disclosure statement disclosed that he uses Binance App. for transferring money collected from one account to another. He further disclosed that accused Sayyed Ali is prime accused in the case and an amount of Rs.10 lacs was deposited in the account of the petitioner by said Sayyed Ali. The petitioner converted the same in USDT coins and deposited the same in the account of said Sayyed Ali. Allegations relate to economic offence and the said offences are triable by the Magistrate. The petitioner is in custody since 16.06.2022.

In the status report filed by the State it has been stated in para 3 and 10 as under: -

> *"3……The investigation of the present case was conducted by the C.I.A. Staff, Hisar. During investigation, it was found that the petitioner/accused in connivance with other* ***co-accused, made suspicious transactions through Binance trading application with the help of his Apple I-Phone and SIM card of Mobile No.8302282949. It is pertinent to mention here that, during investigation, it has been revealed that monetary transaction of Rs.49,999/- (Rupees Forty Nine Thousand, Four Hundred and Ninety Nine only) had taken place on 08.04.2022*** *from account of witness/victim Neeru vide No.0783262000179 held with Punjab National Bank, Patel Nagar Branch, Hisar to the Account No.50200064940221 of Amulya Pardhan held with HDFC*

Bank Limited, Paradeep, Orissa and on further investigation, the said amount is found to have been further transacted from above said account of Amulya Pardhan to the Account No.381705006583 of Sayed Ali held with ICICI Bank Limited, Branch Thirunevuli, Tamil Nadu and said Sayed Ali, in turn, has further transferred money to the account No.002463400004588 of petitioner Akash Sharma held with Yes Bank, Jaipur and got the money converted into USDT coins from the petitioner through his various accounts managed through Binance Trading Application operated with help of his Apple I-Phone and SIM card of Mobile No.8302282949. On the basis of this link evidence, the petitioner was arrested on 16.06.2022. Consequent upon arrest, on 17.06.2022 petitioner was taken out of Lock-up and he suffered his disclosure statement. He was produced before the concerned Court of Magistrate and remand of three days was sought and allowed. On 18.06.2022, the petitioner was interrogated intensively during which he further suffered disclosure statement and disclosed about the Modus-Operandi of the offence. During further interrogation on 19.06.2022, the petitioner suffered further disclosure statement and also got recovered an amount of Rs.3,02,500/- (Rupees Three Lacs, Two Thousand, Five Hundred) received by him in lieu of commission on account of conversion of money to USDT coin. On further investigation it was found that the petitioner, ***for the purpose of conversion of money to USDT coins, was using as many as eight accounts held with various banks*** *viz. (i) Account No.2221220738742231 with AU Bank, Jaipur held in the name of firm 'Skymee'; (ii) Current Account No.4501135000007328 held with Karur Vysya Bank, Branch MI Road, (iii) Saving account*

No.50100480523000 held with HDFC Bank (all of which were opened through online mode); (iv) Current Account No.4746797903 with Kotak Mahindra Bank, Jaipur; (v) Current Account No.50200065996060 with HDFC Bank, Chand Pole Bazar, Jaipur; (vi) Saving Account No.001201643523, (vii) Current Account No.001205039871 with ICICI Bank MI Road, Jaipur, (viii) Current Account No.002463-400004588 with Yes Bank, Ashok Marg, Jaipur, and through all these eight accounts, the above noted Binance trading App was being used by the petitioner and as per disclosure of the petitioner approximate Rs.100 Crore were transacted through various accounts by not paying taxes, GST and in lieu of such illegal transfers, the petitioner received a sum of ***Rs.3 lacs on account of 'Hawala'****. On demarcation of petitioner, when the print out of the details of bank accounts were taken****, it was found that total transaction of Rs.156 Crore, 22 lac, 55 thousand, 109 rupees had taken place****. The details of various suspicious transactions that took place between Sayed Ali and petitioner through their accounts viz. Account No.381705006583 of Sayed Ali held with ICICI Bank Limited, Branch Thirunevuli, Tamil Nadu and Account bearing No.002463400004588 of petitioner Akash Sharma held with Yes Bank, Jaipur, which prima facie prove involvement of the petitioner in the above noted case and to prove that the petitioner, in collusion with others, has siphoned out huge amount to Govt. and public thereby causing huge tax evasion, are given as under":-*

Date	***Amount***
04.04.2022	*Rs.1.5 Lakh*
04.04.2022	*Rs.5 Lakh*

05.04.2022	*Rs.5 Lakh*
06.04.2022	*Rs.2 Lakh*
07.04.2022	*Rs.3 Lakh*
11.04.2022	*Rs.2.90 Lakh*
11.04.2022	*Rs.5 Lakh*
11.04.2022	*Rs.2 Lakh*
11.04.2022	*Rs.2.20 Lakh*
12.04.2022	*Rs.5 Lakh*
12.04.2022	*Rs.2.70 Lakh*

10. That the contents of para No.10 of the petition are totally wrong and hence denied. The petitioner-accused is one of the accused who committed fraud. The charge-sheet report under Section 173 of the Cr.P.C. has been forwarded to the concerned Court against the petitioner and his few co-accused. The investigation is still pending. The remaining co-accused particularly Mr. Sayed Ali, has been somehow avoiding his arrest till date. In case the petitioner is released on bail, then he will create hurdles in investigation. Moreover, the complainant was threatened by the unknown person. In this regard, an FIR No.368 dated 30.06.2022 under Section 506 IPC has been lodged with Police Station Civil Lines, Hisar on the statement of complainant Chander Shekhar, resident of Pately Nagar, Hisar wherein the complainant alleges that on 27.05.2022, his Telegram account held vide Mobile No.8708610269 was added in a Telegram group the name of which was written in 'Urdu' script the translation of which comes out to be 'Jihadi ke Gun' (Good qualities of Jihadi) by unknown person, in which a document of 3 pages written in Urdu was shared. Further, through that

> *group, unknown persons had asked him not to reveal about the platform (Win-Money Application) used by the brothers of their organization "Kudhm-ulh-Islam" for monetary transactions and enticed the complainant that if he will support 'Jihadi Azadi', he would receive large amounts of money. Further, on 29.06.2022, 'Zihad Muslimah', another Telegram Group had contacted the complainant Chander Shekar through video-call and threatened him that a 'Fatwa' has been issued against him for his action of registering the FIR No.0267 dated 17.05.2021 under Sections 120-B, 406, 420, 506 IPC (Section 201, 467, 468, 471 IPC added later on) and 3, 4, 5, 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 with Police Station Civil Lines, Hisar against the Win-Money App."*

Per contra, learned State counsel vehemently opposed the prayer for grant of regular bail to the petitioner and submits that huge amount is involved in the present case. He further submits that the petitioner has converted amount approximately Rs.156 crore 22 lakh 55 thousand 109 rupees into USDT coins through various accounts managed through Binance Trading Application operated with the help of his Apple I-phone and SIM card No.8302282949 and got commission. He further submits that transaction worth Rs.156 crore 22 lakh 55 thousand 109 rupees is without paying any taxes, GST causing huge tax evasion to be paid to the Government and in lieu of such illegal transfers, the petitioner received a sum of Rs.3 lacs on account of 'hawala' and even huge amount of commission has been received by the petitioner from 04.04.2022 to 12.04.2022, as has been referred in para 3 of the status report.

I have heard learned counsel for the parties and perused the record.

No doubt while granting bail the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, severity of the punishment which conviction will entail, the character of the accused and facts and circumstances of the case. It is also one of the factors while considering the bail that there is a reasonable possibility of securing the presence of the accused during trial and reasonable apprehension of the witnesses being tampered with. The larger interest of the public/State and some other similar considerations are also there. It has been held in various judgments of this Court as well as Hon'ble the Apex Court that in economic offence, the view point is to be taken differently with different approach in case of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be taken seriously and considered as grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country as has been held by Hon'ble Apex Court in judgment of case ***Nimmagadda Prasad Vs. Central Bureau of Investigation AIR 2013 SCC 2821***.

It is apt to mention here that another accused namely, Kuldeep Patel also approached this Court by way of CRM-M-43681 of 2022 seeking regular bail. The allegation against him was that co-accused Uday Mehta, in his disclosure statement stated that a sum of Rs.24,95,000/- was transferred to the account of the petitioner (therein) to be given to Parshant Patel and in lieu thereof he got commission worth Rs.3 lacs and he was in custody since 29.06.2022 and keeping in view his custody period and the nature of allegation against him, he was granted regular bail vide order dated 21.12.2022. However, in present case there are direct and serious allegations against the petitioner that he converted approximately Rs.156 crore 22 lakh 55 thousand 109 rupees defrauded amount into USDT coins through various accounts, in connivance with main accused Sayed Ali Hussain, who is yet to be arrested along with other co-accused and in case, the petitioner is granted bail at this stage, he can create hurdles in the further investigation. Therefore, on consideration of rival submissions made on behalf of either side and the stand taken by the State in para 3 and 10 of the status report put forth by the State and keeping in view seriousness of allegations and gravity of offence committed by the petitioner and attribution of role to the petitioner, he does not deserve the concession of regular bail.

Dismissed.

(NAMIT KUMAR)
23.12.2022 **JUDGE**
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No