

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.217(2 cases)

Case No. : CRM-M-675-2023

Date of Decision : February 14, 2023

Sunny Singh		Petitioner
vs.		
State of Haryana		Respondent

Case No. : CRM-M-2951-2023

Date of Decision : February 14, 2023

Umed		Petitioner
vs.		
State of Haryana		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Sanchit Punia, Advocate
for the petitioner (in both cases).

Mr. Karan Sharma, DAG, Haryana.

* * *

GURBIR SINGH, J. :

Vide this common order, two petitions i.e. **CRM-M-675-2023**
and **CRM-M-2951-2023** filed by two different persons, shall be disposed of
as the FIR involved in both the petitions is the same, arising out of the same
occurrence.

These are two petitions under Section 439 Cr.P.C. for grant of
regular bail to the petitioners in case FIR No.0003 dated 08.09.2022, under

Sections 379, 420, 201 and 120-B IPC, 1860, registered at Police Station Cyber Crime, Hansi, District Hisar.

As per the allegations, the petitioner, along with some other persons, formed a gang and indulged in cheating the innocent people by alluring them to provide loan facility. The accused cheated complainant Ved Pal. The complainant received a phone call from a female caller for providing him a loan of Rs.30,00,000/-. The complainant sent his documents like Aadhar Card, PAN Card, Bank Account Copy and passport size photograph through WhatsApp to said female caller. After that, he got another call from the same caller informing him that his CIBIL Score was low, and therefore, he could not get the loan. When advised by the female caller to take loan in the name of someone else, the complainant expressed his desire to take loan in the name of his brother and also sent documents of his brother to the said female caller. After checking the documents, the complainant was told that the loan was approved and some formalities were required to be completed and thereafter, loan amount would be credited in his account. On demand of that caller, the complainant transferred a sum of Rs.5,500/- as loan approval charges. He received certain papers and was made to believe that the loan was sanctioned. He transferred some more amount as stamp duty for sanctioning loan. A total sum of Rs.4,19,000/- was transferred by the complainant on different dates in the account of said female caller through her mobile phone. Later, he came to know that he has been defrauded. A sum of Rs.24,52,000/- (approx.) was transferred from his account during the period from 18.06.2022 to 13.09.2022.

Learned counsel for the petitioners submits that petitioner

Sunny Singh is in custody since 17.09.2022 and petitioner Umed is in custody since 15.09.2022. Both the petitioners were nominated and arrested in this case on the basis of disclosure statement made by co-accused while in custody. There was no transfer of any amount in the accounts of both the petitioners. There is no other evidence collected during investigation against the petitioners. There is no explanation on the part of the complainant as to how the amount was transferred from his account even after registration of the FIR dated 08.09.2022.

Learned State counsel opposes the prayer made by learned counsel for the petitioners and submits that the petitioners are directly involved in this cyber crime. A sum of Rs.60,000/-, which was given to the petitioner Sunny Singh, was recovered from him and similarly, Rs.40,000/- was recovered from petitioner Umed. However, he has fairly conceded that except the disclosure statement of co-accused, there is no other evidence collected against the petitioners which has come on record.

Heard.

In the case in hand, both the petitioners are in custody for the last about five months. The challan is already presented. The allegations against both the petitioners are that they are part of the gang which is indulging in cyber crime. Both the petitioners have been nominated on the basis of disclosure statement made by one co-accused namely Shivam, who withdrew the amount procured by cheating. No other evidence is collected against the petitioners. Therefore, it is debatable if statement of the co-accused in custody is admissible against the petitioners.

Accordingly, considering the fact that the petitioners are in

custody since 15.09.2022 and 17.09.2022 i.e. for about five months, without commenting upon the merits of the case, both the present petitions are allowed and the petitioners are directed to be released on regular bail, on their furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, Hisar.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

A photocopy of this order be placed on the file of the other connected matter.

February 14, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>