2023:PHHC:080741
2023:PHHC:080742

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-7927-2023

Date of Decision : June 02, 2023

Nitish Kumar @ Nitesh Kumar .... Petitioner

vs.

State of Haryana .... Respondent

Case No. : CRM-M-10656-2023

Date of Decision : June 02, 2023

Deepak Kumar .... Petitioner

vs.

State of Haryana .... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Abhinav Singla, Advocate
for the petitioner in CRM-M-7927-2023.

Mr. Jai Bhagwan, Advocate
and Mr. Sanjeev Kumar, Advocate
for the petitioner in CRM-M-10656-2023.

Mr. Karan Sharma, DAG, Haryana.

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GURBIR SINGH, J. :

1. Vide this common order, two petitions i.e. **CRM-M-7927-2023 & CRM-M-10656-2023** filed by two accused persons, shall be disposed of as the FIR involved in both the petitions is the same, arising out of the same occurrence.

2. Both these petitions have been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in case FIR No.0065 dated

15.12.2022, under Sections 419 and 420 IPC (Section 120-B IPC added later on), registered at Police Station Cyber Police, District Rohtak (Annexure P-1).

3. The case in question was registered at the instance of one Darshan Lal Chawla. As per allegations, Rajender Batra, a resident of Canada (Contact No. 1 905 464 5441) is close friend of the complainant. Some unknown person, by impersonating himself as Rajender Batra, was talking with him on his mobile phone. Since he is having partially impaired hearing, initially he could not check the fraud being played with him. The unknown person was talking with him on his whatsapp number. The complainant tried to call his friend many times, but due to difference in time zone, he did not respond to his calls. Thereafter, the above-said caller, who was pretending to be the complainant's friend Rajender Batra, told him that his Canadian number was suspended and due to distress and over-due payment, the Government was ceasing all his accounts and assets in Canada. So, he was in need of finances to be sent to him urgently from outside Canada so that he could pay to the Government and get his assets and accounts released. He also conveyed that he had appointed an agent in India namely Rahul Pandey, who used to manage fund transfers to Canada through some accounts in India. The aforesaid Rahul Pandey communicated with the complainant on his whatsapp number and started giving him instructions on how and where to deposit the funds. Under the above-said pretext, he got transferred Rs.38,35,000/- from the bank account of the

complainant to different bank accounts i.e. Rs.6,50,000/- in the name of Mina Devi, Rs.3,50,000/- in the name of Mina Devi, Rs.5,35,000/- in the name of Rani Devi, Rs.6,00,000/- in the name of Pinku, Rs.6,50,000/- in the name of Suman Kumar, Rs.5,50,000/- in the name of Akhilesh Kumar and Rs.5,00,000/- in the name of Charanjit Singh. The complainant got some apprehension and doubt in his mind. So, he contacted his friend namely Rajender Batra in Canada and only then, he came to know that a fraud has been committed upon him and huge amount of Rs.38,35,000/- has been got transferred from his bank account fraudulently.

4. Learned counsel for petitioner Nitish Kumar @ Nitesh Kumar (CRM-M-7927-2023) has submitted that out of the amount, which was transferred in the bank account of Rani Devi by the complainant, a sum of Rs.25,000/- was transferred in the bank account of present petitioner i.e. Nitish Kumar @ Nitesh Kumar. He has further submitted that petitioner was appointed by Spice Money Limited, as their business correspondent. He has maintained every record of transactions as per rules and regulations of Spice Money Limited. The petitioner is maintaining two bank accounts i.e. one in Union Bank of India and the other in Central Bank of India. The petitioner uses these bank accounts for transactions. The Spice Money Limited provides various kind of services to customers like AEPS (Aadhar Enabled Payment System), DMT (Money Transfer) and Sale Cash Withdrawal through mini ATM.

5. Learned counsel has further submitted that the petitioner was

nominated on the basis of disclosure statement made by co-accused while in custody. Recovery of one mobile phone was falsely planted upon the petitioner. The petitioner is in custody since 23.12.2022. The case is triable by Magistrate. He has further prayed for release of the petitioner by granting him concession of regular bail in this case.

6. Learned counsel for petitioner Deepak Kumar (CRM-M-10656-2023) has submitted that no amount was transferred in the account of the present petitioner. No mobile phone used in the offence in question is in the name of the petitioner. Even no mobile phone has been recovered from him. The petitioner is in custody since 23.12.2022. Keeping in view the role attributed to the petitioner, he be released on bail.

7. Status Report by way of affidavit of Medha Bhushan, IPS, Additional Superintendent of Police, District Head Quarter, Rohtak, has been filed today in CRM-M-7927-2023, which is ordered to be taken on record. Status Report in CRM-M-10656-2023 has already been placed on record.

8. Custody Certificates of both the petitioners have also been placed on record by learned State Counsel.

9. Learned State Counsel has opposed both the petitions by submitting that it is case of cyber crime. A huge amount of Rs.38,35,000/- has been got transferred in the accounts of different persons from complainant’s bank account fraudulently. Out of the amount of Rs.5,35,000/-, which was transferred in the bank account of one Rani Devi, a

sum of Rs.25,000/- was transferred in the bank account of present petitioner i.e. Nitish Kumar @ Nitesh Kumar. However, learned State counsel has fairly conceded that no amount was got transferred in the account of petitioner Deepak Kumar. It has further been brought to the notice of this Court that both the petitioners are in custody since 23.12.2022. Other accused involved in this case are yet to be arrested. It has further been apprised to this Court that in both the petitions, it has been wrongly mentioned that no other case is pending against the petitioners. A case bearing FIR No.27 dated 19.12.2022, under Sections 419, 420 IPC, Sections 66-C & 66-D of IT Act and 120-B IPC has been registered at Police Station Cyber Crime, District Ambala against petitioner Nitish Kumar @ Nitesh Kumar. As far as accused Deepak Kumar is concerned, there are two FIRs pending against him i.e. FIR No.27 dated 19.12.2022, under Sections 419, 420 IPC Sections 66-C & 66-D of IT Act and 120-B IPC, registered at Police Station Cyber Crime, District Ambala and FIR No.30/2021, under Sections 406, 420, 506, 34 IPC, registered at Ram Nagar, District Rewari and he has been arrested in both the cases.

10. Heard.

11. It is a cyber-crime of very high magnitude. Sum of Rs.38,35,000/- was transferred from the account of complainant in accounts of different persons. The involvement of the petitioner Nitish Kumar @ Nitesh Kumar is apparent since sum of Rs.25,000/- was transferred in his account from the account of Rani Devi, in whose account sum of

Rs.5,35,000/- was transferred. The involvement of petitioner Deepak Kumar is also established. He is working to do such crime on commission basis. Other accused are not yet arrested. When it comes to cyber-crime, nothing is private – our geo-location, our conversations on social media or even our bank accounts. Over 60% of the world's population is using internet, it is easy for such criminals to find vulnerable people and attack them. Cyber-crime has a psychological impact on those affected, causing feeling of anxiety, depression and even trauma. Even a single successful cyber-crime can have far reaching effect on the economy. A lot of expertise is required to trace such criminals. Since such criminals are based at different places, so it is difficult to bring such criminals to the Court of law. Money is further transferred in such quick succession that stolen money is hardly recovered. It is high time that such persons should be dealt with heavy hand and has telling impact, so that a person should fear the law before committing any such type of crime.

12. Moreover, both the petitioners concealed the fact of registration of cases earlier against them. The petitioners have also tried to cheat the Court.

13. Without discussing the merits of case, I am of the view that the petitioners do not deserve any leniency by this Court.

14. Accordingly, both the petitions i.e. **CRM-M-7927-2023 & CRM-M-10656-2023** are hereby dismissed.

15. However, nothing contained herein above shall be construed as

an expression of opinion on the merits of the case.

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

17. Pending applications, if any, shall stand disposed of along with these two petitions.

June 02, 2023 **(GURBIR SINGH)**
monika **JUDGE**

Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*