IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-11241-2023
Date of decision:-20.12.2023

Nitish Kumar

... Petitioner

Versus

State of Haryana **.. Respondent**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.R.S. Hooda, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

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SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
32	30.07.2022	Cyber Crime, Rohtak, District Rohtak	419, 420, 467, 468, 471, 120-B IPC & 66-C & 66-D IT Act

2. Version of the prosecution is that FIR, Annexure P1, has been registered by Neeru Sharma stating that a Debit card was issued to her by HDFC Bank and when it was not delivered by the courier company, she called them up. Rahul Sharma told her to make an online complaint by making a deposit of Rs.5 as fee. She received a call on a WhatsApp number and a file "Online Complaint.apk" wherein she filled the details and while

she was kept on a hold, she received messages that an amount of Rs.99,999/- has been withdrawn from her bank account.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated and has no role in the fraud. By making a reference to the petition, he submits that a few days prior to the registration of FIR, Annexure P1, another FIR had been lodged at the same police station wherein petitioner was named as an accused and the police authorities found him to be an easy target. He submits that the petitioner is in custody since 11.09.2022 and the trial is no where near completion. In order to show his *bona fides*, but without admitting the allegations levelled in the FIR, counsel for the petitioner submits that petitioner is prepared to deposit an amount of Rs.50,000/- with the trial Court.

4. *Per contra*, State counsel on instructions from Inspector Dilbag and by making a reference to the status report submits that the mobile from which the phone call had been made belonged to Rampal and the SIM was found to be in the name of the petitioner. He submits that the petitioner has been playing active role and has been indulging in similar type of fraud in a number of other cases. As per his instructions, out of twelve prosecution witnesses, eight have been examined. He submits that the petitioner is involved in two other criminal cases.

5. I have heard counsel for the parties and considered their respective submissions.

6. Petitioner is in custody for the last more than 15 months and the trial is not likely to conclude in the near future. The role ascribed to the

petitioner would remain debatable before the trial Court. Noticing the nature of allegation levelled against the petitioner, his length of custody and the stage of trial as well as the offer made on his behalf, this Court has no hesitation in acceding to the prayer made in the petition. Still further, it may be noticed that the offences allegedly committed by the petitioner are triable by a Magistrate. This is another factor, which weighs in favour of the petitioner.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. Petitioner shall deposit an amount of Rs.50,000/- with the trial Court, which shall be a condition precedent to his release on bail. In case the amount is deposited, the same shall be kept in a fixed deposit with a public sector bank for a period of one year with instructions for automatic renewal. The amount along with accumulated interest shall be paid to the party, who is found entitled to it.

9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case and the deposit of the amount by the petitioner shall not prejudice his right of defence.

(SUVIR SEHGAL)
JUDGE

20.12.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No