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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-21045-2023 (O&M)
Date of decision: 17.07.2023

NARENDER KUMAR ALIAS KALA …Petitioner

VS

STATE OF HARYANA ...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravi Kumar Girdhwal, Advocate,
For the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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ARUN MONGA, J. (ORAL)

Aggrieved on being declined bail by the learned trial court, petitioner seeks his release as undertrial in a case bearing FIR No.02 dated 01.08.2022, registered under Sections 420, 467,468,471,120-B of the Indian Penal Code, 1860 (for short 'IPC') and Sections 66-C and 66-D of Information and Technology Act, 2000 (for short 'IT Act') at Police Station, Cyber Crime, Sonipat.

2. A written complaint was presented by the Senior General Manager of ECE Industries to the Cyber Police Station in Sonipat. The complainant stated that the company manufactures Power Transformers, and holds a bank account with Bank of Baroda on Gurudwara Road, Sonipat. This bank account is associated with a phone number which belongs to Jai Kishan, the Senior Accountant. The complainant received a call from Jai Kishan's phone, inquiring about certain debit messages. The complainant responded by stating that no transactions were made and instructed Jai Kishan to block the account. Subsequently, Jai Kishan informed the complainant that 16

transactions, totalling Rs.1 Crore 89 lakh, were conducted by unknown individuals/fraudsters through online transfers. These individuals pretended to be representatives from Jio. These unknown persons conspired to fraudulently hack the company's account, resulting in financial loss. Jai Kishan also confirmed that he never shared any passwords or One-Time Passwords (OTPs) with anyone. Based on the complaint, an FIR was registered. The petitioner was arrested as a suspect on December 13, 2022.

3. Learned counsel for the petitioner states that petitioner is simply a driver and is barely 9th pass. Heis not educated enough to understand the alleged economic offences, which have been attributed to him. He was simply carrying out the instructions of his employer, namely, Ashok Kumar who being physically handicapped and is personally unable to operate his bank account.In the premise, as and when he was asked to withdraw the money from ATM, he would simply go and carry out the instructions. He had no knowledge as to the source of money being deposited in the bank account and/or the account number or even otherwise had no independent knowledge, in any manner.

3.1. Learned counsel for petitioner would further urge that while petitioner is under incarceration, his family comprising of his wife and two minor children is living in sheer penury as he is the sole breadwinner of the family. In any case, allegations against the petitioner are a matter of trial.He further submits that no other case is pending against the petitioner.

4. Per contra, learned State counsel on instructions from SI Lokesh Kumar opposes the bail petition. He submits that a huge amount is involved in this case. Petitioner is involved in serious cyber fraud. He does not deserve concession of bail, at this stage. However, he admits that no other case is pending against the petitioner.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel submits that challan has been presented and charges have been framed. Being so, since trial has commenced petitioner is not required for any further custodial interrogation and is being kept in preventive custody only on the suspicion of tampering with the evidence and/or influencing the witnesses. Out of 42 prosecution witnesses, none has been examined so far. Trial is likely to take a long time. Whereas, petitioner has already been in jail for the past more than seven months, being behind bars since 13.12.2022.

7. There is no likelihood that petitioner might flee or not appear in Court if released on bail. Petitioner has clean antecedents. Be that as it may, offence allegedly committed by the petitioner is of non-violent nature and in that sense his release on bail is not a threat to society at large by committing any violent crime. In any case, allegations against petitioner are a matter of trial. Bail allows an accused to maintain his freedom until his guilt or innocence is determined.

9. Considering the overall scenario and without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Magistrate, as the case may be.

11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of hearing the instant bail petition alone and learned trial Court shall proceed without being influenced with this order.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

17.07.2023
vandana

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No