(222)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25362-2023
Date of Decision: 06.11.2023

MANUWAR ANSARI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.900 dated 18.11.2021 registered under Sections 379, 420, 120-B, 201 IPC at Police Station City Karnal.

2. The present FIR came to be registered on the basis of a complaint filed by Raj Kumar son of Net Ram who stated that on 11.11.2021, he had made an online payment transfer through the CRED App from his (complainant's) Mobile No.9996680038 and a payment of Rs.15,233/- was deducted on the credit card from his account in the Axis Bank. However, the amount was not transferred in the account in which the said amount was supposed to have been transferred. He waited for two days in the belief that the payment was under process. However, when the payment was not remitted back into his account nor was the same received in the accounts to which he intended it to be transferred then again on 13.11.2021, he searched

for the customer care number of the CRED App on Google and found Mobile No.8274955187. He made a call on the said mobile number and the person on the other side told him (complainant) that a call would be made to him (complainant) by the customer care department. Thereafter, he received another call from Mobile No.9995970749 where the person informed him that he was one Deepak Sharma calling from the customer care department of the CRED App. He (complainant) was asked to lodge a complaint with the CRED Company after which his money would be returned to him. Despite the aforementioned fact, the money was not returned and on 14.11.2021 on the day he (complainant) made another call to Mobile No.9995970749, he was told that he would need to give details of two credit cards of his bank on which the refund was sought. He was also told that he would need to reset his CRED App for which he needed to download another app by the name of Any Desk. He (complainant) thereafter downloaded the Any Desk App and the caller told him that a nine digit code would be received by him which he was to convey to the caller. The details were to be provided along with the last four digits of his credit cards, their expiry dates and CVV number on the WhatsApp of the CRED App. Pursuant thereto, he was given the Mobile No.87897-62965 of another Senior Manager. However, he was entrapped and soon found that multiple amounts were being deducted from his card. He immediately dialed the number of the Senior Manager and informed him of the fraudulent transactions. He was asked to disclose a nine word code appearing on his (complainant's) Any Desk App. Thus, he was entrapped in the talks of the Senior Manager and a sum of Rs.6,60,000/- came to be deducted from his different credit cards.

Pursuant to the registration of the FIR, the Investigating Officer found that Beneficiary Bank Account No.5252101002967 in Canara Bank and Account No.20918100001624 in the Bank of Baroda stood in the name of one accused Anil Sahni. He was arrested on 24.05.2022 and suffered his disclosure statement implicating the petitioner.

The petitioner was already in custody in FIR No.154 dated 22.04.2022, under Section 420 IPC, Police Station Amia, District Riva, Madhya Pradesh and joined investigation in the present case on the basis of production warrants on 27.02.2023. He disclosed that he had shared his bank Account No.309013596112 at RBL Bank and Account No.10210009043545 at the Bandhan Bank with Akhtar Ansari and Nurul Hussain and it was at their instance that a part of the cheated amounts was received into his account which he further transmitted to Akhtar Ansari and Nurul Hussain's account for a payment of a commission.

The report under Section 173 Cr.P.C. came to be presented against the petitioner whereas Akhtar Ansari and Nurul Hussain are yet to be arrested.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. Other than the confessional statement of his co-accused, there was no admissible evidence against him. He was involved in one other case bearing FIR No.154 dated 22.04.2022 under Section 420 IPC, Amaiya, District Riva, Madhya Pradesh in which he had been granted the concession of bail vide order dated 22.02.2023. The copy of the said order is marked as **X**. As the petitioner was in custody since 27.02.2023, only 03 of the 11 prosecution witnesses had been examined so

far and the case was triable by the Court of a Magistrate, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel while referring to the reply dated 16.06.2023, contends that the petitioner and his co-accused have cheated the complainant of a huge amount of money. Two of his co-accused were yet to be arrested. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 27.02.2023, only 03 of the 11 prosecution witnesses had been examined so far and in the one other case registered against the him, he has been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.*"

7. The veracity of the prosecution case against the ptitioner and his co-accused shall be adjudicated upon during the course of Trial. Admittedly, the petitioner is in custody since 27.02.2023, only 03 of the 11 prosecution witnesses have been examined so far and in the one other case registered against him, he has been granted the concession of bail. There are no serious apprehensions expressed by the State that the petitioner would abscond from

justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Manuwar Ansari son of Mustaffa Ansari is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the cases mentioned in this order.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

06.11.2023
JITESH **Whether speaking/reasoned:- Yes/No**
Whether reportable:- Yes/No