IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31205 of 2023 (O&M)
DATE OF DECISION: 06.07.2023

Sonu Sharma …Petitioner

Versus

State of Haryana …Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Raman Chawla, Advocate,
For the petitioner.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J. (ORAL)

Status report by way of an affidavit of Vipin Ahlawat, HPS, Assistant Commissioner of Police, Cyber, Gurugram on behalf of State of Haryana has been tendered, in course of hearing, which is taken on record.

2. Aggrieved on being declined bail by the learned trial court, petitioner before this Court, aged 32 years, seeks his release as undertrial in criminal case bearing FIR No.46 dated 04.04.2023, registered under Sections 420, 120-B IPC and Section 66-D of Information and Technology Act, at Police Station Cyber Crime West Gurugram, District Gurugram.

3. Per FIR, complainant Ms. Divya alleged that on 25.02.2023, she received a message on Telegram from someone named Meera offering a part-time job. She continued to receive messages from Meera and replied on 27.02.2023. Soon after, she started receiving messages from a

person named Tejaswi on WhatsApp.Tejaswi explained that the job involved rating famous movies on a platform called Bitmaxfilm.com. The platform claimed to offer salaries for rating movies so that movie owners could decide whether to create sequels. To start rating, Divya needed to register on the platform and recharge her account with Rs. 10,500/-. She would then be required to complete at least one set every day, with each set consisting of rating 28 movies. After completing a set, she could withdraw her earnings. The recharge and deposit process occurred through customer service on WhatsApp or Telegram. The customer service provided a merchant's account number and the amount to be deposited. Once Divya made the deposit, the customer service confirmed it, and the platform showed the deposit.

3.1. On 27.02.2023, Divya started rating the movies. However, while rating, she received a message on the platform stating that she had received a premium ticket and needed to deposit the negative balance to complete the set; otherwise, her account would be frozen. On the same day, she was added to a WhatsApp group named "LEGENDS," which had 14 members who shared pictures of their daily deposits and withdrawals. On 27.02.2023, Divya was asked to deposit Rs. 29,500/- and then an additional Rs. 82,541/-. On 01.03.2023, she was asked to deposit Rs. 2,28,318/-. She was then informed that she had to complete 30 tickets due to an increased level, and a negative balance of Rs. 5,48,658/- was shown. Divya was told it was her last ticket to complete; otherwise, her account would be frozen. On 04.03.2023, she was asked to deposit Rs. 9,59,357/- to complete the final ticket. However, she was later informed that she had reached level-8 and needed to complete 35 tickets. She was asked to deposit Rs. 5,00,000/-, followed by another Rs. 5,00,000/-, and then Rs.

5,00,000/- again, and finally Rs. 9,01,895/-.On 06.03.2023, she was asked to deposit Rs. 21,23,765/- to withdraw all her deposited amount, with assurance that she would be able to withdraw the entire amount, including the Rs. 21,23,765/-, along with her remaining balance, or else the system would freeze. On 14.03.2023, when she made the deposit, she was told to complete another set to withdraw her money. During the last ticket, she was asked to deposit Rs. 17,04,857/-.

3.2. On 15.03.2023, she placed a withdrawal request, but she was informed that since the amount exceeded Rs. 10,00,000/-, she needed to deposit Rs. 46,28,600/- to clear security risks and verify her account. Failure to do so would result in the freezing of her account, and she would need to pay 30% of the total amount to withdraw her money. Realizing that she had been cheated, Divya filed a police complaint, providing details of the account numbers, bank numbers, registered mobile phone numbers, debit cards, and the fraudsters' accounts with mobile numbers. An FIR was registered to investigate the matter and take action against the accused who had coerced her into depositing more money under false pretense of returning her already deposited money. Petitioner was arrested in course of the investigation.

4. Learned counsel for petitioner *inter alia* contends that petitioner has been falsely implicated in the present case.He submits that petitioner is not the promoter/owner of company in whose bank account money was deposited by the complainant. Petitioner is not directly involved in the present case in any manner. One of the joint holders has been dropped by the police for the reasons best known. Co-accused Naresh Kumar Acharya is yet to be arrested.

4.1 Learned counsel for the petitioner submits that petitioner has studied up to 12th class and was doing work as an agent in Sahara India at Bhilwara (Rajasthan). His two unmarried brothers are students. He is the only breadwinner of his family. He has added responsibility of his parents to look after them.

5. Per contra, learned State counsel opposes the bail petition. He submits that role of the petitioner in the present case is that he is the partner/Director in Techno Tree Digital Service Pvt. Ltd. A huge amount of Rs.19,59,357/- is found to have been transferred from the account of complainant in the bank account of said company.He is involved in serious cyber fraud. He does not deserve concession of bail at this stage.He is involved in another FIR No.13 dated 14.01.2022, registered under Sections 420, 406 IPC Police Station Kotwali, Bhilwara (Rajasthan).

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

7. Petitioner is in custody in this case since 12.05.2023.On a Court query, learned State counsel submits that challan has been prepared and it is likely to be filed in due course before the Competent Court. Being so, it appears that investigation *qua* the petitioner is complete and no useful purpose would be served to keep the petitioner in preventive custody. Petitioner has already been in preventive custody for the past more than one month. It is not a case where there is any serious allegation of petitioner tampering with the evidence, if released, same being of documentary nature and has already been seized by the investigating agency.

8. 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.

9. 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.

10. 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.

11. 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.

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

06.07. 2023 **(ARUN MONGA)**
vandana **JUDGE**

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