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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31996-2023
Date of Decision: 11.09.2023

SUNDESHWAR ROY

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CRM-M-35156-2023

VIPIN KUMAR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gautam Dutt, Advocate with
Mr. Sahil Gole, Advocate
for the petitioner in CRM-M-31996-2023.

Mr. C.R. Narwal, Advocate
for the petitioner in CRM-M-35156-2023.

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

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JASJIT SINGH BEDI, J.

This common order shall dispose of two petitions bearing No.CRM-M-31996-2023 titled as *Sundeshwar Roy Versus State of Haryana* and CRM-M-35156-2023 titled as *Vipin Kumar Versus State of Haryana* as the same are arising out of the same FIR.

2. The prayer in the present petitions under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0396 dated 01.10.2021 registered under Sections 420, 468, 471, 120-B of the IPC, 1860 and Sections

65, 66, 66-C, 66-D of the Information Technology Act, 2000 (added later on) at Police Station, Pinjore, District Panchkula, Haryana.

3. The instant FIR was registered on the basis of a complaint by the Women and Child Development, Project Officer, Pinjore (hereinafter referred to as WCDPO). The complainant alleged that separate IDs were provided to the Data Entry Operator and the WCDPO, Pinjore under the Pradhan Mantri Matru Vandana Yojana (hereinafter referred to as PMMVY). Under the said scheme, an amount of Rs.5000/- was to be paid to the first-time pregnant woman in three installments of Rs.1000/-, Rs.2000/- and Rs.2000/-. For the aforesaid purpose, the form was to be filled on the online portal. Thereafter, the approval was to be accorded by the WCDPO and the amount was then to be transferred to the account of the pregnant woman concerned through PEMS. However, both the IDs were hacked by someone some time ago and the hacker had transferred the amount in the accounts of fake cases fed from 20.05.2021 to 30.05.2021. When the office came to know about it and the status was checked, it was found that 439 cases were filled from different Anganwadi Centers of the Block and 1319 installments of the amount were transferred to the accounts of the said cases. The said cases were not related to the Anganwadi Centres concerned and the forms were not filled by the Anganwadi workers concerned. The said cases were also verified by the Supervisor and it was found that the forms were not filled on the portal by the Data Entry Operator concerned because she was on leave during the aforesaid period due to illness. The approval was not granted to the said cases by the CDPO concerned. On acquisition of the knowledge, a written complaint was forwarded to the higher officers but still the payment of the

said cases was made. The benefit of the scheme was to be given in three installments and the admissible amount was not to be given to any beneficiary in one go. However, all the three installments were transferred in the above cases in one go. Not even a single case had come to the correction queue out of the fake cases though some of the cases filled at the block level used to come to the correction queue due to some defect in the online system.

It is on the basis of the above allegations, the present FIR came to be registered.

During the investigation, on 28.10.2021, Ms. Anuradha, Data Entry Operator posted with the office of WCDPO, Pinjore submitted the relevant data in the form of a pendrive and the same was taken into police possession. On 08.12.2021, the Data Entry Operator, WCDPO, Pinjore submitted the list of the accounts wherein the amount under the PMMVY was transferred. The said list of the accounts was taken into police possession and the statement under Section 161 Cr.P.C. was recorded.

An SIT was constituted and on 18.01.2022, notices under Section 91 of Cr.P.C. was sent to the Google Inc. Mountain View, California, United State of America and Sh. Lalit Grover, Under Secretary to the Government of India, PMMVY, Shastri Bhawan, New Delhi with the request to provide the complete login ID, IP address, user ID, Password, mobile number and the device of the used IDs veenakumari117hh@gmail.com and Kamleshtakhar123@gmail.com.

On 27.01.2022 notices were issued under Section 91 of Cr.P.C. to the banks concerned with regard to the bank accounts wherein the amount was fraudulently transferred with a request to provide the account opening form with KYC details of the account numbers, transaction statement of the account numbers, details regarding debit and credit card issued etc. on which details were obtained from various banks.

One of the IP addresses was found as mobile No.9304899415 and the said mobile number was in the name of Sundeshwar Roy (petitioner in CRM-M-31996-2023) son of Shri Parmeshwar Ray, resident of Chak Habib, Bibutipur, District Samastipur, Bihar. The other IP address related to mobile No.9110153609 which was in the name of Vipin Kumar (petitioner in CRM-M-35156-2023) son of Shri Lal Babu Shah, resident of Motipur, Samastipur, Bihar. The third IP address related to mobile No.6299420649 which was in the name of Savita Devi wife of Sanjay Mahto, resident of Mohiuddin Nagar, R.S. Tola Fulwariya. The fourth IP address related to the mobile No.9135091954 which was in the name of Naresh Kumar son of Bhola Sharma, resident of Village, Bharokhra Ward No.11, District Samastipur, Bihar.

On 22.04.2022, the Branch Manager, Bank of India Branch, Jagliyan Turn, District Gopal Ganj, Bihar supplied the account opening form, KYC and bank account statements relating to the Bank Account No.469010110015909. Similarly, the Branch Manager of PNB, Meer Ganj, District Gopal Ganj, Bihar supplied the account opening form, KYC and the bank account statement related to Account No.4745000100178933. During the course of investigation, the statements of Suganti Devi, Ruby Parveen, Rupesh Kumar, Awdesh Shah and Vijay Kumar etc. all residents of Bihar were recorded. After examining the bank records, it transpired that an amount of Rs.34,20,000/- in 684 cases had been found to be embezzled.

On 16.04.2023, the petitioner-Sundeshwar Roy was arrested and Section 120-B IPC and Sections 65, 66, 66-C, 66-D of Information Technology Act, 2000 were added to the instant FIR. On his disclosure statement, one Realme mobile set was recovered from his possession.

On 19.04.2023, petitioner-Vipin Kumar was arrested and his disclosure statement was recorded. He got recovered documents relating to the beneficiaries along with an amount of Rs.9000/- from his house.

The report under Section 173 Cr.P.C. was submitted against the petitioners on 15.06.2023.

4. The learned counsel for the petitioner-Sundeshwar Roy (CRM-31996-2023) contends that he has been falsely implicated in the present case. No amount has been received in the bank account of the petitioner. In fact, the phone of the petitioner has been misused by a third person and the petitioner has been framed in the instant case. As the petitioner was in custody since 16.04.2023, only 02 of the 104 prosecution witnesses had been examined so far and in the one other case registered him, he had been granted the concession of anticipatory bail, he was entitled to the grant of regular bail in the instant case as well as the case was otherwise Triable by the Court of a Magistrate.

5. The learned counsel for the petitioner-Vipin Kumar (CRM-M-35156-2023) contends that he has also been falsely implicated in the present case. The petitioner had been named only in the disclosure statement of his co-accused. No amount had been received in the bank account of the petitioner. As the petitioner was in custody since 19.04.2023 and was a first-time offender, he was entitled to the concession of bail as the trial of the

present case was not likely to be concluded anytime in the near future, since only 02 of the 104 prosecution witnesses had been examined so far.

6. On the other hand, the learned State counsel contends that the petitioners are amongst the main accused. The IP address of the mobile No.9304899415 was in the name of petitioner-Sundeshwar Roy whereas the IP address of Mobile No.9110153609 was in the name of petitioner-Vipin Kumar. The ID of the WCDPO, Pinjore was hacked from the said IP addresses and the amount was transferred to the accounts of the beneficiaries after entering their names in a fraudulent manner. Thereafter, the petitioners used to collect the amount from the beneficiaries through their companions. He, therefore, contends that the petitioners were not entitled to the concession of bail as cyber offences of the present kind were on the rise. He, however, concedes that the petitioners were in custody since 16.04.2023 and 19.04.2023 respectively and only 02 of the 104 prosecution witnesses had been examined so far.

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

8. 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.*"

9. In the instant case, admittedly, the case is triable by the Court of a Magistrate. The petitioners are in custody since 16.04.2023 and 19.04.2023

respectively. Only 02 of the 104 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. There are no serious apprehensions expressed by the State that the petitioners 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 petitioners is not required.

10. Thus without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on bail on their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

11. The petitioners 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 they are not involved in any other crime other than the cases mentioned in this order.

12. The petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.2,00,000/- each 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 petitioners from trial without sufficient cause

13. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

11.09.2023
JITESH

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