

CRM-M-42289-2023 (O&M) AND
CRM-M-41794-2023 (O&M)

223 (2 cases)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: August 31, 2023
CRM-M-42289-2023 (O&M)

1.

Ashok Kumar Yadav
.....Petitioner
versus
State of Haryana
.....Respondent

2. CRM-M-41794-2023 (O&M)

Hemant Kumar Meena
.....Petitioner
versus
State of Haryana
.....Respondent

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Balkar Singh, Advocate for petitioner
in CRM-M-42289-2023.

Mr. Naveen Kashyap, Advocate for petitioner
in CRM-M-41794-2023.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

Vide this common order, above-mentioned two bail petitions, arising out of the same FIR, are being disposed of. For brevity, recitals/facts are from CRM-M-42289 of 2022.

2. After being declined bail by the trial Court, petitioners seek their release as undertrials 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 66C, 66D of the Information Technology Act, 2000 (for short ‘IT Act’), at Police Station, Cyber Crime, Sector-23, Sonipat, District Sonipat.

3. Per prosecution version, Complainant, a Senior General Manager, of ECE Industries, Delhi Road, Sonipat, Haryana, stated that ECE is manufacturing Power Transformers and having current account No.01060500000002 in Bank of Baroda, Gurudwara Road, Sonipat. For Internet banking or SMS Alert, aforementioned bank

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account is connected to Phone No.7082210528 belonging to Senior Accountant, Jai Kishan Bhatt. He used to deal with Internet banking in this account. Complainant received call from Jai Kishan stating that debit messages of Rs.10 lacs –10 lacs were received on his phone. Whereas, no such transaction were made by company and when they tried block the account, Jai Kishan discovered that account was not accessible. Internet Login failed. He then called on bank helpline to block the account and it was then that the account was blocked by bank. Thereafter, he was told by Jai Kishan that in a series of 16 transactions, a total Rs.1 Crore 89 lacs was withdrawn by the fraudsters by way of on line transfer. On the basis of this complaint, FIR in question was registered. During investigation, petitioner-Ashok Kumar Yadav was arrested as a suspect on 11.12.2022 and petitioner-Hemant Kumar Meena was arrested as a suspect on 10.09.2022.

4. Learned counsels for petitioners contend that co-accused of the petitioner, namely Narender Kumar @ Kala and Raju Yadav have been granted concession of bail by this Court. While other co-accused, namely Ashutosh @ Rajan, Rajpal @ Raju, Shailesh Kumar and Bhim Yadav have been granted bail by learned Court below. Role attributed to the petitioners is on similar footing, yet they continue to be in jail while others have been granted bail.

4.1. Learned counsel for petitioners submits that petitioners were not named in the FIR. Petitioners were arrayed on the basis of disclosure statement. Petitioners are nowhere connected with the alleged offence as they have not done anything overt or covert. Petitioners are not even conspirators.

4.2. Learned counsels further urge that nothing is to be recovered from the petitioners and no useful purpose would be served by keeping them behind bars.

4.3. Learned counsel for petitioner-Ashok Kumar Yadav fairly submits that petitioner is involved in one more case.

5. On the other hand, learned State counsel opposes the petitions and submits that petitioners have committed serious offence. Complainant-company has been put to huge loss of Rs.1,89,00,00/- by hacking its account fraudulently. He submits that it is a

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big nexus spread all over the Country. If enlarged on bail, there is every likelihood that petitioners will commit similar offence and/or will flee from trial, and they might tamper with evidence or influence/ intimidate the witnesses. On a Court query, he does not dispute that other co-accused have been granted bail, have been attributed similar role as the petitioners herein.

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

7. Challan has already been presented, but charges are not framed yet. Investigation *qua* petitioners is complete, they are thus not required for custodial interrogation.

8. On a Court query, learned State counsel, on instructions from Inspector Rajeev, submits that out of total 42 witnesses, none has been examined till date. Allegations against petitioners are a matter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioner-Ashok Kumar Yadav has already been languishing in jail for the past more than 8 months in preventive custody, being behind bars since 11.12.2022. Petitioner-Hemant Kumar Meena has already been languishing in jail for the past more than 11 months in preventive custody, being behind bars since 10.09.2022.

9. Petitioners are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. Offence allegedly committed by petitioners are of non-violent nature and in that sense, their release on bail is not a threat to society at large by committing any violent crime.

10. It is stated that petitioner-Ashok Kumar Yadav is 43-year old agriculturist and a married person having one minor child. He has also added responsibilities of his old aged parents who all are living in sheer penury in his absence. Petitioner-Hemant Kumar Meena is stated to be 24-year old young boy having old aged parents to look after, and is in crossroads of his career. His continued incarceration will ruin his future

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prospects. Being family men and having fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.

11. Co-accused of the petitioners, attributed with similar role, have been granted concession of bail by this Court and learned Court below.
12. Considering the overall scenario and without commenting on the merits of the case, the instant petitions are allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.
13. Accordingly, petitioners are ordered to be released on bail, in case not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their cases are being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
14. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
15. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 31, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No