

CRM-M-44654-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44654-2023 (O&M)

Date of decision: September 14, 2023

Yash Sharma

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Jitendra Kumar, Advocate,
Mr. Anil Tomar, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as an 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 66C, 66D of the Information Technology Act, 2000 (for short 'IT Act'), at Police Station, Cyber, Sonipat.

2. 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 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 lakh –10 lakh 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 Thereafter, he was told by Jai Kishan that in a series of 16 transactions, a total Rs.1 Crore 89 lacs was withdrawn by the fraudsters by way of on line transfer.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 was arrested as a suspect on 01.09.2022.

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3. At the outset, learned counsel for petitioner contends that co-accused of petitioner, namely, Anil Singh @ Guddu, Narender Kumar @ Kala, Sahil Sanjiv Poddar, Raju Yadav, have all been granted concession of bail by this Court.

3.1. While the other co-accused, namely Bhim Yadav, Shailesh Kumar, Rajpal @ Raju and Ashutosh have been granted bail by learned Court below.

3.2. Role attributed to the petitioner is on similar footing, yet he continues to languish in jail while others have been granted bail.

3.3. Learned counsel for petitioner submits that petitioner is nowhere connected with the alleged offence as he has not done any overt or covert act. Petitioner was not named in the FIR. He is not even a conspirator.

3.4. Learned counsel further urges that nothing is to be recovered from the petitioner and, thus, no useful purpose would be served by keeping him behind bars. Investigation is over.

4. On the other hand, learned State counsel, on instructions from Inspector Rajeev, opposes the petition and submits that petitioner has committed a 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 big nexus spread all over the country. If enlarged on bail, there is every likelihood that petitioner will commit similar offence and/or will flee from trial, and he might tamper with evidence or influence/ intimidate the witnesses. He further submits that petitioner is also involved in two other cases of similar nature.

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 does not controvert that role attributed to the petitioner is similar to that of the aforesaid co-accused, who have been already accorded benefit of bail. He also submits that challan has already been presented, and charges were framed way back on 19.01.2023. Investigation *qua* petitioner is complete, he is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Out of total 51 witnesses, none has been examined so far. Whereas, petitioner has already been languishing in jail for the past more than 01 year in preventive custody, being behind bars since 01.09.2022.

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7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if he is let out, he 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 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.
8. It is stated that petitioner is 28-year old young person and a sole bread-earner of his family. He has also having added responsibilities of his old age parents, who are living in sheer penury in his absence. Being a family man and having fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.
9. Co-accused of the petitioner, attributed with similar role, have been granted concession of bail by this Court and learned Court below.
10. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
11. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his cases is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
12. 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.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 14, 2023

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No