(224)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44566-2023
Date of Decision: 30.10.2023

VIKAS BISHNOI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jarnail Singh Saneta, 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.08 dated 04.05.2023 registered under Sections 386, 419, 420, 467, 468, 471, 506, 120-B IPC at Police Station Cyber Crime, Sector 23, District Sonipat, Haryana.

2. The present FIR came to be registered on the statement of Jogi Ram son of Shri Mangli Ram who stated that his mobile number was 9315431919. On 13.04.2023, he had received a phone call from Mobile No.917455066731 and the caller had asked him that he (complainant) had obtained two insurance policies. The details of the said policies were provided to him (complainant). The caller further informed him that he (complainant) was going to get a very meagre amount on the maturity of the said insurance policies and he was actually entitled to Rs.11,67,335/-. The caller also assured him (complainant) that he (caller) would lodge a complaint in this regard. The caller also thereafter, told him (complainant)

that such kinds of complaints were being dealt with IGMS which was under the IRDAI. He (complainant) was also told that he would receive Rs.20,000/- per month as pension. In furtherance of the same, he (complainant) had deposited money in the following manner:-

> *(i) On 13.04.2023, Rs.26,800/-, PFT services, account No.2207110190055776, IFSC Code No.UJVN0002207, Ujjivan Small Finance Bank, Delhi.*
> *(ii) On 15.04.2023, Rs.70,300/- in the same bank account.*
> *(iii) On 19.04.2023, Rs.1,40,000/- in the same bank account.*
> *(iv) On 21.04.2023, Rs.2.00 lacs in the same account.*
> *(v) On 24.04.2023, Rs.3.00 lacs in the same bank account.*
> *(vi) On 28.04.2023, Rs.97,000/-, PFT services, account No.71191011007769, IFSC Code No.BKID0007119, Bank of India, Ghaziabad, Uttar Pardesh.*

While depositing the above-said amounts, he (complainant) had received phone calls from Mobile Nos.918393985652, 919105090684 and 918588901346 and the callers used to allure him (complainant) by making those calls. Thus, he had been cheated of an amount of Rs.8,24,000/- by the callers who claimed to be employees of Max Life Insurance Company. Thereafter, WhatsApp calls were being made to him (complainant) from different numbers and he was being blackmailed for an amount of Rs.5,00,000/- more failing which they would make viral his obscene photographs and that of his family members.

During the course of investigation, the relevant record pertaining to Account No.2207110190055776 with Ujjivan Small Finance Bank and Account No.71191011007769 with Bank of India was obtained and taken into possession. As per the said record, Account No.71191011007769 was found in the name of Upendra Singh, resident of F-238, Sector 23, Sanjay Nagar, Ghaba, Ghaziabad and Mobile No.7291989587 was found registered in the said bank account.

On 06.05.2023, the relevant record pertaining to Account No.2207110190055776 with Ujjivan Small Finance Bank was obtained and taken into possession. This bank account was found in the name of Roshan son of Bade Babu Mehta, resident of J-702, Gali No.2, Libaspur Landmark, Main Kusal Road, North-West, Delhi in which Mobile No.9599659261. The account statements of the said bank accounts were obtained as per which it was found that after deposit of money in Account No.2207110190055776 with Ujjivan Small Finance Bank, the following transactions were made in this account into other bank accounts:-

Sr. No.	*Account No.*	*Date*	*Amount*
1.	*10076448916*	*13.04.2023*	*Rs.82,000/-*
2.	*-do-*	*19.04.2023*	*Rs.40,000/-*
3.	*-do-*	*21.04.2023*	*Rs.50,000/-*
4.	*-do-*	*24.04.2023*	*Rs.80,000/-*
		Total	*Rs.2,52,000/-*
5.	*10099325168*	*21.04.2023*	*Rs.50,000/-*
6.	*-do-*	*24.04.2023*	*Rs.80,000/-*
		Total	*Rs.1,30,000/-*
7.	*860901000000015*	*15.04.2023*	*Rs.48,000/-*
8.	*7046607217*	*15.04.2023*	*Rs.22,300/-*
9.	*-do-*	*19.04.2023*	*Rs.1,00,000/-*
		Total	*Rs.1,22,300/-*
10.	*50100592233452*	*21.04.2023*	*Rs.50,000/-*
11.	*1558019311564718*	*21.04.2023*	*Rs.50,000/-*
12.	*-do-*	*24.04.2023*	*Rs.69,800/-*
		Total	*Rs.1,19,800/-*

During investigation, the relevant record and account statements of all these bank accounts were obtained and taken into possession. From the record, it was found that Account No.50100592233452 with HDFC Bank was in the name of Roshan son of Bade Babu Mehta and Mobile No.9311564718 was registered in the said bank account. On 21.04.2023, after a receipt of Rs.50,000/- in the said bank account, this amount had been withdrawn through an ATM from Delhi and Rs.70,000/- was withdrawn on 24.04.2023 through an ATM at Delhi. It was also found that Account No.7046607217 with Kotak Mahindra Bank was also in the name of Roshan and Mobile No.9910863868 was registered in the said bank account. After receipt of Rs.22,300/- in this account on 15.04.2023, the same was withdrawn through an ATM. After receipt of Rs.1,00,000/- in this account on 19.04.2023, Rs.1,15,500/- was transferred on the same day in another Account No.110081846687 with the Canara Bank. It was found that Account No.10076448916 with IDFC Bank was in the name of Ansh Harjai, resident of Sector 16, Rohini, Delhi and Mobile No.8375872065 was found registered in this bank account. After receipt of Rs.2,52,000/- in this account, the said amount was withdrawn through an ATM. The Account No.10099325168 was found in the name of Parveen Kumar c/o Ram Kishan, Gali No.2, Main Khushal Road, Libaspur, North Delhi and Mobile No.8447688752 was found registered in this bank account. After a deposit of Rs.1,30,000/- in this bank account, the same was withdrawn through an ATM. Account No.110081846687 with the Canara Bank was found in the name of Roshan son of Bade Babu Mehta and Mobile No.8447728341 was found registered in this bank account. On receipt of Rs.1,15,500/- on 19.04.2023, the same was transferred in Account No.10099325168 with the IDFC Bank on 19.04.2023 from which it was withdrawn through an ATM. The Account No.1558019311564718 with the Utraksh Small Finance Bank was found in the name of Roshan and Mobile No.9311564718 was found registered in this bank account. Rs.50,000/- was received in his bank account on 21.04.2023 which was withdrawn through an ATM. On receipt of Rs.69,800/- on 24.04.2023, the same was withdrawn through an ATM.

On 02.06.2023, the accused Upender @ Pinder son of Horam Singh, Sawtantar Sharma @ Bhim son of Mahender Partap and petitioner-Vikas Bishoni were arrested in the present case. The petitioner disclosed that he had indulged in the acts of cheating and his cousin namely, Nischal @ Nishu and his friends namely, Ashu and Tinda had told him that they used to extract money from people on the pretext of extending profit on their policies for which they required bank accounts and would be willing to pay a handsome amount as commission. On account of greed, he had joined the gang. He had told these facts to his friends Sawtantar Sharma @ Bhim Singh and the said Sawtantar Sharma @ Bhim Singh had got him (petitioner) introduced with his friends namely, Prince son of Bade Babu and Parveen Kumar. Sawtantar Sharma @ Bhim Singh had provided the details such as pass-book, cheque book, ATM Card and internet banking Mobile No.7291989587 of account No.71191011007769 with the Bank of India of Upender @ Pinder to him (petitioner). He had sent the details of the said bank account to Kabir, resident of Aligarh for which Kabir had given Rs.20,000/- as commission out of which Rs.10,000/- he (petitioner) had given to Sawtantar Sharma @ Bhim Singh.

Petitioner-Vikas Bishoni got recovered his mobile phone used in the commission of the offence. During investigation, the call details and CAF form of Mobile No.7291989587 was obtained as per which the said SIM card was found in the name of accused Upender @ Pinder.

The report under Section 173(2) Cr.P.C. was submitted in the Court against Upender @ Pinder, Sawtantar Sharma @ Bhim Singh and the petitioner-Vikas Bishnoi on 16.08.2023 under Sections 120-B/386/419/420/467/468/471/506 IPC.

4. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR. His name has figured in the disclosure statement of his co-accused. No recovery has been made from the petitioner. In fact, the recovery of a mobile has been foisted upon him. As the petitioner was a first-time offender, in custody since 02.06.2023 and only 01 of the 08 prosecution witnesses had been examined so far, he was entitled to the concession of bail moreso as the case was triable by the Court of a Magistrate.

5. A reply dated 27.10.2023 by way of an affidavit of Jeet Singh, HPS, Assistant Commissioner of Police, Kharkhoda, Sonipat has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that offences of these kinds were on the rise. The petitioner along with his co-accused cheated the complainant of a huge amount of money. Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 02.06.2023 and only 01 of the 08 prosecution witnesses had been examined so far.

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

7. 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.*"

8. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of Trial. Admittedly, the petitioner is a first-time offender, in custody since 02.06.2023 and only 01 of the 08 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 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.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Vikas Bishnoi son of Sheel Chand Bishnoi is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. 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 present case.

11. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

30.10.2023
JITESH

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