2023:PHHC:161570

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. No.

CRM-M-47876-2023 (O&M)
Date of decision:14.12.2023

Sachin Gudalia

…Petitioner

Versus

State of Haryana

…Respondent(s)

CORAM: HON’BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Sunil Saharan, Advocate for the petitioner.

Mrs. Sheenu Sura, DAG, Haryana.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the instant petition under Section 439 Cr.P.C. before this Court with a prayer to grant regular bail to him in case FIR No.267 dated 17.05.2022 registered under Section 406/420/506/201/120-B IPC and under Sections 3/4/5/6 of the Price Chits and Money Circulation Scheme (Banning Act), 1978 at Police Station, Civil Lines, District Hisar.

2. The FIR in the present case was got registered by Chander Shekhar son of Anil Kumar, resident of Patel Nagar, Hisar by alleging that few days ago, he received a call on “telegram” and the caller disclosed his name as Aina and said that they had an app. namely WinMoney, which is android link chain app and the same was approved by Government of India. It deals in chit fund schemes and several persons had invested their money in

the scheme. The caller induced the complainant to invest in the scheme and he had deposited a sum of Rs.12 to Rs.15 lacs in the said 04 IDs of the application from the different bank accounts. For sometime, the complainant was paid the commission, but later on when the complainant checked the application, he came to know that the payment was stopped and his IDs and accounts were blocked. Later on, the complainant received a call on telegram that in case the complainant deposited Rs.80,000/- in their account, his payment in the WinMoney application would be paid to him. However, the complainant told him that he had already deposited his entire amount in WinMoney app. and he was not left with anything more. The caller gave his mobile No.9773524619 to the complainant and gave his ID Guruji.jil2@ybl to him and asked him to deposit the amount in the same. When the complainant talked to one Aina on telegram, he was told that they had defrauded people through WinMoney app. and he could do whatever he wanted. With these allegations, the FIR in the present case was registered against Aina and other accused.

3. Learned counsel appearing on behalf of the petitioner vehemently argued that the petitioner has been falsely involved by the police with some ulterior motive. The only evidence against the petitioner was the disclosure statement suffered by co-accused and the evidentiary value of the said disclosure statement was yet to be adjudicated upon by the trial Court. Still further, the FIR was initially registered against unknown persons and later on the police implicated several persons by adding offence under Section 120-B IPC in the present case. He further contended that the petitioner was a poor worker, working with R.K. Enterprises, where the main accused Uday Mehta met him and offered him an opportunity to get

the commission of Rs.50,000/- per month by opening a bank account, which was being used by Uday Mehta regularly at a subsequent stage. Even the signed cheque book and passbook of the said account were kept by Uday Mehta himself for the purpose of money transactions. Learned counsel further contended that the petitioner had fallen in the trap of Uday Mehta and gave a consent to open an account in his name and handed over the signed cheque and pass-book to him. There is no allegation against the petitioner that he had received any money or asked, enticed anyone to deposit money in his account. Apart from that, there was no evidence to prove that the petitioner had withdrawn any amount from his account or had any bank transaction with anyone. He further submitted that the account was opened by the petitioner on the advice of co-accused Uday Mehta and had received a sum of Rs.50,000/- for the said purpose. He further contended that the petitioner was involved with the aid of Section 120-B IPC and was in custody since 08.06.2022. Thus, further detention of the petitioner will not serve any meaningful purpose.

4. On the other hand, learned counsel for the State has filed a status report by way of affidavit dated 14.12.2023 of Deputy Superintendent of Police, Law & Order, Hisar, which is taken on record.

5. Learned counsel for the State has further submitted that the petitioner/accused Sachin Gudaliya was having a bank account bearing No.259601396729, maintained at Indusland Bank, Ahmedabad and after finding sufficient incriminating evidence against him, he was arrested by the police. The petitioner admitted that his friend, namely, Pintu Rajput and Uday Mehta were also involved in the present crime. Accused Pintu Rajput and the petitioner had suffered their respective disclosure statements and

admitted the allegations levelled by the complainant in the present case. Apart from that, during the course of investigation, the name of the petitioner had cropped up. From the disclosure statement of co-accused Udey Mehta, it was found that the co-accused Uday Mehta had burnt the account book and signed cheques of the petitioner/accused Sachin Gudaliya, which were kept by the co-accused Uday Mehta for shifting the amount from bank account of the petitioner. Uday Mehta had opened bank account in the name of the petitioner in the year 2021 in Indusind Bank and through this account of the petitioner, they used to deposit and withdraw the money from the bank accounts, earned by them by committing the fraud. Uday Mehta used to call from his Whatsapp number to Pintu Rajput and gave instructions to withdraw the amount by using signed cheques of the petitioner. Apart from that, during the course of investigation, it also revealed that WhatsApp number of petitioner/accused bearing No.9601396727 was in touch with the main accused Uday Mehta. Further, the applicant helped Uday Mehta in transferring of funds from one place to another and the applicant used to get the commission for the same. Even there were allegations of Rs.318,00,00,000 (Three hundred eighteen crore) in the bank account of the petitioner. Apart from that, the bail application of Uday Mehta and Aakash have already been dismissed by this Court.

6. I have heard the learned counsel for the parties and perused the case file minutely.

7. In fact, co-accused Aakash Sharma had also applied for grant of regular bail by way of CRM-M-44238-2022, however, this Court had dismissed the bail petition by observing as follows:-

> *"No doubt while granting bail the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, severity of the punishment which conviction will entail, the character of the accused and facts and circumstances of the case. It is also one of the factors while considering the bail that there is a reasonable possibility of securing the presence of the accused during trial and reasonable apprehension of the witnesses being tampered with. The larger interest of the public/State and some other similar considerations are also there. It has been held in various judgments of this Court as well as Hon'ble the Apex Court that in economic offence, the view point is to be taken differently with different approach in case of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be taken seriously and considered as grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country as has been held by Hon'ble Apex Court in judgment of case* ***Nimmagadda Prasad Vs. Central Bureau of Investigation AIR 2013 SCC 2821."***

8. Apart from that, Aakash Sharma had approached the Hon'ble Supreme Court vide SLP (Criminal) No.14707 of 2023, seeking regular bail and the said petition was dismissed by the Hon'ble Supreme Court on 15.05.2023 and the trial Court was directed to conclude the trial within a period of six months from that day.

9. From the submissions made by the learned counsel for both the sides, this Court is of the considered opinion that a fraud of several hundred crores of rupees had been played by Uday Mehta and the present petitioner. Even the amount involved in the present case is hundreds of crores and the matter is under investigation qua other co-accused. Furthermore, the petitioner had earlier filed a petition for grant of regular bail before this

Court by way of CRM-M-10221-2023 and after making the detailed submissions, learned counsel had withdrawn the bail petition of the petitioner on 21.08.2023. However, the present bail application has been filed on 19.09.2023, i.e. within a period of less than one month and there is no change of circumstances in such a short period. Even on this ground, the present petition is liable to be dismissed.

10. Having heard the learned counsel for the parties and going through the case file, this Court has arrived at a firm conclusion that it is a case of serious fraud committed by the petitioner and other co-accused and the total amount involved in this case is hundreds of crores of rupees and the matter is still under investigation qua other accused. It is apparent from the investigation that the petitioner had conspired with other accused and the accused transferred money from one account to another, just to mislead the investigators and the general public. Apart from that, this Court as well as the Hon'ble Supreme Court have held in a series of judgments that economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The petitioner along with his co-accused had hatched deep-rooted conspiracies and cheated hundreds of innocent investors from the public, involving crores of rupees and such offences need to be viewed seriously and must be considered as very grave offences. Even during the course of investigation, it has also been found that serious threats have been extended to the complainant and the witnesses of the present case. Apart from that, the investigation is at a very crucial stage against some of the co-accused, who are yet to be arrested and are still absconding from the process of law. Apart from that, it has already been found during investigation that, considerable share of the amount involved in the present

case has also been transferred to the account of person Mubasir Mamoon, resident of Rajpora, Pulwama, Jammu and Kashmir and there are well founded apprehensions that the said money may be used for terror fundings. Even during the investigation, it has been found that Jahangir Ahmad and Umar Shafi, brothers of Mubasir Mamoon are involved in terrorist activities and are already in custody in FIR No.108/2022, Police Station Awantipura, District Pulwama, which has been registered for commission of the offences under Unlawful Activities Prevention Act.

11. In view of the above discussion, the present petition must fail and is accordingly, ordered to be dismissed.

(N.S. SHEKHAWAT)
JUDGE

12.12.2023
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO