287 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-50189-2022
Date of Reserve:21.08.2023
Date of Pronouncement:28.08.2023

Uday Mehta …Petitioner

Vs.

State of Haryana …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Bipan Ghai,Sr. Advocate with
Mr. Nikhil Ghai, Advocate
Mr. Darshil Gupta Advocate and
Mr. Shubham Mangla, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

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<u>N.S.Shekhawat J.</u>

1. The present petition has filed by the present petitioner under Section 439 Cr.PC with a prayer to grant regular bail to him in a case arising out of FIR No.267 dated 17.05.2022, registered under Sections 420, 506 and 120-B of IPC and Section 3,4,5 and 6 of Price Chits and Money Circulation Scheme (Banning Act), Police Station Civil Lines, Hisar, District Hisar (Annexure P-1).

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 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 Senior counsel appearing on behalf of the petitioner vehemently argued that the petitioner has been falsely involved in the present case. The only evidence against the petitioner is the disclosure statements suffered by the co-accused, which carried no evidentiary value. Learned Senior counsel further submitted that even otherwise the FIR was registered against the some unknown persons and he has been falsely involved with the aid of Section 120-B IPC by alleging that he had withdrawn Rs.20.90 crores from the account of co-accused Sachin Gudalia and deposited with R.K Enterprises, Ahemdabad. Thus the only role, which is attributed to the petitioner is that he used to transfer money from one account to another. Learned senior counsel further submits that the investigating agency had thoroughly investigated the matter, but could not

collect any evidence to show that the petitioner had played any active role in defrauding the public or had made false allurement to anyone. Learned senior counsel further submitted that the investigation in the present case has already been completed and the final report under Section 173 (2)Cr.PC stands presented against the petitioner. Further, there is no other case against the present petitioner and has been in custody since 29.06.2022. Thus, the petitioner is entitled for grant of concession of bail by this Court.

4. On the other hand, learned State counsel submitted that as per the investigation, Uday Mehta (petitioner) is one of the main accused, who has conspired with the other accused and cheated the innocent and poor persons and committed serious economic offence, It has come on record that ***Account no. 259601396729, Indusind Bank pertains to M/s Ambika Multi Trade*** and this account was got opened in the name of Sachin Gudaliya by submitting his documents in the bank and in the said account, Rs 2.50 crore was transferred by Parshant Patel on 03.03.2022 and it has come during investigation that on 03.03.2022 itself, Rs. 16,44,54,000/- (Rupees sixteen crore, forty four lacs and fifty four thousand) was also credited in the said account through online transfers and in total, Rs. 18,94,54,000/- was credited in the said account. It has been further found during investigation that it was the petitioner Uday Mehta, who was operating the said account of M/s Ambika Multitrade. During investigation it was revealed that in a short span of three months, Rs. 318,46,57,264/-(Three Hundred eighteen Crore, fourty six lac, fifty seven thousand, two hundred sixty four) were credited in the said account from different accounts through electronic transfers. So, there were very huge entries in account and more than Rs. 318 crore was credited in his account and out of

the said amount, Uday Mehta (petitioner) had transferred/withdrawn Rs. 317,27,30,745/- (more than Rs. 317 crore) either by way of cash withdrawal by using cheques already signed by Sachin Gudaliya or paid/transferred the amount to other accounts vide cheques bearing signatures of Sachin Gudaliya and his signatures were already taken on the cheque book by Uday Mehta. The culpability of the petitioner is also clear from the fact that petitioner Uday Mehta was using a mobile set without any SIM Card and he used to make calls/interact through whatsapp and used to connect internet by using Jio Dongle by inserting the sim in that dongle, making it unable to trace his location. However, investigating agency got a lead by coming to know that he used to put orders on Swiggy App and from Swiggy Company, address of the petitioner was verified and thereafter investigating team reached to the address of the Uday Mehta-petitioner and on the said address, M/s Ambika Multi Traders was registered and it has come on record that it was accused Uday Mehta, who was operating the activities and business of the said Company from the abovementioned office place. Still further learned State counsel submitted that during investigation it was revealed that there were 59 transactions from the account of M/s Ambika Multi Trade to the account of Best Trading Company and one Rahul Parik, R/o Ahmadabad, who is the authorized signatory/proprietor of the said firm namely Best Trading Company. As per the investigation, there were entries of about Rs. 465 crore in the account of Best Trading Company in a month only and the said account was operated only for one month. The case is still under investigation qua Best Trading Company and in case of grant of bail to the petitioner, he may cause disappearance of the link evidence and destroy the relevant material.

5. Learned State counsel further submitted that in case of grant of bail to the present accused, who is the main accused till date as per the investigation, there may be threat to the life of the complainant- Chandershekhar and other vicitims, who have been cited as prosecution witnesses in the case. As after arrest of the accused-Uday Mehta (petitioner) on 29.06.2022 from Ahmadabad (Gujarat), the complainant had received a threat call on the very same day by adding his name in a Telegram Group, which was created by the name of "*Jihad Muslimah To Jannah*". The complainant was firstly allured by promising lucrative money and requested to join with the accused and to withdraw the case and when complainant had shown his reluctance, he was threatened to see the dire consequences of his deeds against their brother and "Fatwa in Urdu" was issued on a different Telegram Group "Kudham-Ulh-Islam" to kill him. That complainant had received a number of threat calls time and again by adding his number in different groups like Gajwa e hind, Jihad Muslimah To Jannah and Kudham-Ulh-Islam etc. He had also received a number of threat calls from different international numbers. From the date of registration of FIR to till date the complainant had received 7 threat calls, whereby one of the caller mentioning himself as Parshant Patel, who threatened the complainant to mend his ways if he want to live further. The complainant was also joined in 3 live threat streaming on telegram group. The accused Parshant Patel, who is resident of Gujarat and now staying in Dubai as per location history of his mobile phone, extended threat to the Chander Shekhar-complainant on dated 04.01.2023 & 21.06.2023 by giving a call to him through Telegram App. The petitioner/accused may allure the other victims and witnesses and in case of non-favouring the accused by the victims and witnesses, they may be got

eliminated by the accused/petitioner, which is clear from the fact that the complainant is receiving constant threat calls from unknown persons and a Fatwa had also been issued on a Telegram Group to kill him.

6. Learned State counsel further submitted that during investigation it has come on record that considerable share of the amount involved in this case was also transferred to account of a person namely Mubasir Mamoon, resident of Rajpora, Pulwama, Kashmir and there are serious apprehensions involved in this case for terror funding. It is matter of record that one of the co-accused namely Karan had also arranged three accounts for deposit of the amount through different persons by alluring them and ultimately the ATM Cards and Cheque Books of the said three accounts were sent to Mubasir Mamoon There were transactions to the tune of Rs. 11.50 crores in the said three accounts in a short span of time. It has come during investigation that an amount of Rs. 4,90,000/-, was transferred to the account of Karan from two different accounts, which are in the name of accused Mubasir Mamoon and his father Mohd Shafi Lone. It has come during investigation that Jahangir Ahmad Lone and Umer Shafi Lone, who are brothers of accused Mubasir Mambon, are involved in terrorist activities and they are in custody in FIR No. 108 of 2022, P.S. Awantipora District Pulwama, which has been registered for commission of offences under Unlawful Activities Prevention Act and Indian Penal Code and facing trial. This aspect of the case is also under investigation and in case of grant of bail to the petitioner, he may tamper with the evidence and may cause disappearance of the relevant evidence, which would be relevant to thoroughly investigate the case from other aspects.

7. As per the record the petitioner/accused is involved in Case FIR

no-11191044220335 Dated, 29.08.2022 U/s 406,420,467 468,471,120B, 34 IPC Police Station, Ghatlodiya, Ahmadabad (Gujarat) and FIR No. 2035 Dated, 27:12:2021 U/s 66(C), 66(D) ITA ACT & 419,420 IPC Police Station. Cyber Crime Police Station Hyderabad (Telangana). Learned State counsel further submitted that the co-accused Akash Sharma had also applied for grant of regular bail before this Court by way of CRM-M-44238-2022, however, this Court had dismissed the said application 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 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.***
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> *It is apt to mention here that another accused namely, Kuldeep Patel also approached this Court by way of CRM-M-43681 of 2022 seeking regular bail. The allegation against him was that co-accused Uday Mehta, in his disclosure statement stated that a sum of Rs. 24,95,000/- was transferred to the account of the petitioner (therein) to be given to Parshant Patel and in lieu thereof he got commission worth Rs 3 lacs and he was in custody since 29.06 2022 and keeping in view his custody period and the nature of allegation against him, he was granted regular bail vide order dated 21.12.2022. However, in present case there are direct and serious allegations against the petitioner that be converted approximately Rs. 156 crore 22 lakh 55 thousand 109 rupees defrauded amount into*

> *USDT coins through various accounts, in connivance with main accused Sayed Ali Hussain, who is yet to be arrested along with other co-accused and in case, the petitioner is granted bail at this stage, he can create hurdles in the further investigation Therefore, on consideration of rival submissions made on behalf of either side and the stand taken by the State in para 3 and 10 of the status report put forth by the State and keeping in view seriousness of allegations and gravity of offence committed by the petitioner and attribution of role to the petitioner, he does not deserve the concession of regular bail. Dismissed.”*

8. Learned State counsel further submits that co-accused Aakash Sharma had also approached the Hon’ble Supreme Court vide the SLP (Criminal) No.14707 of 2023, seeking regular bail and the said petition has already been ordered to dismissed vide order dated 15.05.2023 and the Trial Court has been directed to conclude the trial within a period of six months from that day. Since the Hon’ble Supereme Court has already directed the Trial Court to decide the trial within six months, it can never be said that there will be delay in disposal of the trial by the Trial Court and in case the petitioner is released on bail, he may abscond to delay the decision of the case and the Trial Court would not be able to conclude the trial in a time bound manner, as per the directions of the Hon’ble Supreme Court.

9. I have heard learned counsel for the parties and with their able assistance; I have perused the record carefully.

10. From the submissions made by both the sides, 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.

12. Needless to mention here that the abovesaid observations have been made only for the limited purpose of the disposal of the present bail application and shall not be construed as an expression of opinion on the merits of the case and the Trial Court shall decide the trial proceedings independently, on the basis of the evidence led by the parties.

(N.S.SHEKHAWAT)
JUDGE

28.08.2023
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No