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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

237+238+239

Date of decision : 24.11.2023

1. CRM-M-55969-2023

Raj Kumar Narang Petitioner

versus

State of U.T. Chandigarh Respondent

2. CRM-M-56649-2023

Mahesh Sharma Petitioner

versus

U.T. Chandigarh Respondent

3. CRM-M-58322-2023

Mahesh Kumar Petitioner

versus

U.T. Chandigarh Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Mayank Bansal, Advocate
Mr. Sankalp Gehlawat, Advocate and
Mr. Rajat Pradeep, Advocate
for the petitioner in CRM-M-55969-2023.

Mr. Nitin Bhatia, Advocate
for the petitioner in CRM-M-56649-2023.

Mr. Nitin Sharma, Advocate
for the petitioner in CRM-M-58322-2023.

Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh.

Mr. Yogesh Saini, Advocate
for the complainant.

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PANKAJ JAIN, J.

1. These three petitions under Section 439 Cr.P.C. have been filed by undertrials praying for grant of regular bail in FIR No.78 dated 15.07.2023, registered for the offences punishable under Sections 420 and 120-B of IPC, at Police Station Cyber Crime, U.T. Chandigarh.
2. As per the contents of the FIR, it has been alleged as under:-

“To the SHO PS-Cyber Crime, Sector-17 Chandigarh. Respected Sir, this is to humbly state that I Anupama Khullar, have been a victim of online financial fraud, on 7th July. I received a whatsapp message from no 84-399488057 to my whatsapp No. 8872487900 to invest in Amazon Advertisement of India by clicking on a telegram link @pxx887. The same day I made a transaction of Rs. 1000 Rs. 3000 I received some profit around Rs. 2800. After that I made a transaction of Rs. 5000 and deceived into sending them aroujg total Rs. 45,40,233/-. The details of the transaction are as following to A/c Name PNB JANDANI HARDWARE 2705002100007091 Rs. 30,000/- Date 7th July 23 Link varashahinbaumohamm 39574876@hdfcbank Rs. 20,000/- 7th July 23 PNB- 0364002100336143 SOM ESTATE AGENCY Rs. 13,00,000/- 7 July 23 ICICI 535505500113 URVI ENTERPRISES Rs. 15,00,000/- 8 July, 23 ICICI 677105601688 White Moon international Rs. 12,00,000/- 11th July, 23 PNB 0684002100042458 Balaji Catering Services Rs. 4,85,233/- 12th July 23 Paytm payment of Rs. 5000/- on the 7th July 23. The total

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amount of Rs. 45,40,233/- (Forty five lacs forty thousand two hundred and thirty three) has been taken from me fraudulently, I request you to please helps us in the matter to nab the culprit and get us the refund of my hard earned life's savings.

3. Counsel for the petitioners have relied upon order dated 03.11.2023 passed in CRM-M-54035-2023, whereby one of the accused namely Partik Mangi has been granted bail observing as under:-

“This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.78 dated 15th of July, 2023 registered for the offences punishable under Sections 420, 120-B IPC at Police Station Cyber Crime Chandigarh.

2. As per the contents of the FIR it was alleged as under :

“I Anupama Khullar, have been a victim of online financial fraud on 7th July. I received a whatsapp message from no. 84399488057 to my whatsapp no. 8872487900 to invest in Amazon Advertisement of India by clicking on telegram link @pxx887. The same same day I made a transaction of Rs 1,000/-Rs 3,000/- I received some profit around Rs 2800. After that I made a transaction of Rs 5000/- and deceived into sending them aroujg total Rs 45,40,233/-. The details of the transaction are as following TO A/c name PNB JANDANI HARDWARE 2705002100007091 Rs. 30,000/- DATE 7th July 23 link varashahinbanumohamm 39574876@hdfcbank Rs. 20,000/- 7th july 23 PNB-0364002100336143 SOM ESTATE AGENCY Rs. 13,00,000/- 7 july, 23 ICICI

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535505500113 URVI ENTERPRISES ' Rs 15,00,000/- 8 July, 23 ICICI 677105601688 White Moon International Rs. 12,00,000/ - 11th July, 23 PNB 0684002100042458 Balaji Catering Services Rs. 4,85,233/ - 12th July 23 Paytm payment of Rs 5000/- on the 7th July, 23. The total amount of Rs 45,40,233/- (Forty Five Lacs Forty Thousand Two Hundred and Thirty Three) has been taken from me fraudulently. I request you to please helps us in the matter to nab the culprit and get us the refund of my hard earned life saving.xxx”

3. Counsel for the petitioner submits that the only incriminating evidence collected by the agency after having concluded investigation in report filed under Section 173 Cr.P.C. before the Court concerned is in form of a disclosure made by co-accused and the alleged recovery of three seals. He further submits that there is no trace of any amount having travelled up to the petitioner. Investigation already stands concluded, thus there can't be any apprehension that the petitioner shall tamper with the evidence.

4. Per contra, Ld. Public Prosecutor submits that the allegations levelled against the petitioner are quite serious and the online scams do have wide sweep. However he is not in position to controvert the assertions made by counsel for the petitioner that apart from disclosure of a co-accused there is nothing incriminating against the petitioner as per report filed under Section 173 Cr.P.C.

5. I have heard counsel for the parties and have carefully gone through records of the case.

6. Without commenting on the merits of the case, keeping in view the allegations levelled, the

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nature of offence against the petitioner and the incarceration suffered by him, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

7. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.”

4. So far as the bail plea of two petitioners i.e. Raj Kumar Narang and Mahesh Kumar is concerned, learned public prosecutor has not been able to point out any distinguishing feature that can hold this Court from granting parity to the present petitioners vis-a-vis Partik Mangi (co-accused).

5. So far as the bail plea of Mahesh Sharma is concerned, learned Public Prosecutor has submitted that the account in which the amount of Rs.30 lakhs was deposited by the complainant is in name of Mahesh Sharma and thus there being serious allegations against him, he does not deserve grant of bail being the main accused.

6. Learned counsel representing the petitioner-Mahesh Sharma has raised a plea that even as per the request of the prosecution filed before the Magistrate seeking 14 days judicial custody of the present petitioner, it has been admitted by them that though account is in the name of the present petitioner-Mahesh Sharma, but according to CDR and location basis, when the raid was conducted, it was Aditya Sharma son of Manish Sharma who was found residing at the said place. He thus contends that the name and identity of the present petitioner is being misused by the said Aditya

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Sharma.

7. Having heard rival contentions from counsel representing the petitioners, the complainant as well as the State, this Court is of the considered opinion that present petition filed by Mahesh Sharma deserves to be rejected.

8. The allegations levelled in the complaint point towards an online scam. These online scams apart from having wide sweep are faceless. Most of the time, the prey is not in the knowledge of the predator. When it is discovered by the victim that he has been duped, the dilemma is that the victim does not know the culprit. Thus, this Court does not find any merit in the contentions being raised by counsel for the petitioner that the name and identify of Mahesh Kumar was being misused by Aditya Sharma as he cannot deny the fact that the amount indeed travelled to the account which was in the name of petitioner.

9. At this stage, learned Public Prosecutor for U.T. submits that there is another FIR registered against all the three accused before this Court in the present petitions in the State of Madhya Pradesh and there are production warrants which have been received by the authorities.

10. It is made clear that the two accused have been granted bail in the present case only. Obviously, the authorities are in law bound to comply with the production warrants.

11. In view of above, the petition qua Mahesh Sharma is dismissed and qua Raj Kumar Narang and Mahesh Kumar, the petitions are allowed. Both the petitioners are ordered to be released

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on regular bail on their furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

12. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

13. A photocopy of this order be placed on the files of other connected cases.

(PANKAJ JAIN)
JUDGE

24.11.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No