* IN THE HIGH COURT OF DELHI AT NEW DELHI

**Reserved on : 19.09.2023**
% **Pronounced on : 29.11.2023**

\+ **BAIL APPLN. 1346/2023**

KULDEEP SINGH ..... Petitioner

Through: Mr. Raj Kumar, Advocate.

versus

CBI & ANR. .... Respondents

Through: Mr. Ravi Sharma, SPP with Mr. Anjani Kumar and Ms. Madhulika Raishara, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

**ORDER**

**RAJNISH BHATNAGAR, J.**

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C read with Section 482 Cr.P.C. for grant of regular bail in case FIR No. 2(A)/2019 (RC2182019A0002), under Section 409/420/467/468/471/506/120-B IPC, 13(2)/13(1)(d) P.C.Act, and 66 I. T. Act, 2000 registered at Police Station AC-III, New Delhi.

2. In brief, the case of the prosecution is that a software was developed to handle the annual accounts processing of the EPFO. Accordingly, UAN (Universal Account Number) based centralized Unified Portal Application was developed by C-DAC, Pune for assisting the EPFO (Employees Provident Fund Organization) to develop a connector solution required for

working of field office application in consolidated mode. EPFO (IS-division) did the database consolidation of 120 field office databases. Both the applications were hosted at Gurgaon Railtel Data Center, Online claims receipt module was developed by EPFO IS-Division team with technical assistance from C-DAC, Pune and it was integrated with Unified Portal. EPFO started the process of online claims in May 2017. The online claims were received at Unified Portal and processed at field office using field office application.

3. During the testing on 14.03.2018, Annual Account Team Member Sh. Vikram Dattatri, AD (IS) reported a TRRN of establishment id (DSNHP0017112000, Name-SCHNEIDER ELECTRIC INDIA PVT LTD.) (Member ID DSNHP00171120000003540) where contribution mismatch was found between the challan paid by employer and data available in the Delhi (South) Field Office. On further examination, it was found that there was an extra member in Field Office Database against the TRRN referred by the account team and the claim was also settled.

4. Further, the Annual Account Team identified a total 25 such cases where claims were settled but there was a mismatch in the data to the tune of Rs. 3,88,45,505. Accordingly, matter was reported initially to the Delhi Police and the EOW Branch investigated the said case and filed a charge sheet in June, 2018, Thereafter, upon direction of Government of India, this matter was referred to the CBI. A supplementary charge sheet under Section 173(8) Cr.P.C. was filed in the meantime. As per the prosecution, the accused persons who played pivotal role were arrested in this case including the present petitioner.

5. I have heard the Ld. counsel for the petitioner, Ld. SPP for the respondent (CBI), perused the Status Report and also perused the records of this case.

6. It is submitted by learned counsel for the petitioner that petitioner has been falsely implicated in the present case, the investigation is complete and the chargesheet has been filed. It is further submitted that petitioner is in judicial custody since 06.05.2022 and the main accused, namely, Uday Singh, has already been granted bail by the learned Trial Court. It is further submitted that petitioner, after registration of FIR, has joined the investigation and has cooperated with the investigating agency. It is further submitted that there is no oral or documentary evidence against the petitioner, however, the petitioner's account has been credited with a sum of Rs. 50,000/- which the petitioner is ready and willing to return. It is further submitted that petitioner has clean past antecedents.

7. On the other hand, it is submitted by learned SPP that the Economic Office Wing of Delhi Police has filed the chargesheet in this case on 13.06.2018 whereas the investigation of the said FIR was transferred to CBI on 29.03.2018 for further investigation looking into the seriousness of the offence. It is further submitted that petitioner and his co-accused in furtherance of the criminal conspiracy had made 57 bogus account entries in EPFO database which resulted in fraudulent withdrawal of Rs. 13.18 Crores. It is further submitted that petitioner has provided the bank account and Aadhar card details of 9 individuals to co-accused Uday Singh and out of the said accounts, in 8 bank accounts defrauded amount of Rs. 2,49,30,936/- were received. It is further submitted that earlier bail application of the

petitioner was dismissed as withdrawn by this Court vide order dated 27.03.2022. It is further submitted that co-accused Uday Singh in conspiracy with petitioner got information about member IDs as petitioner had good connections in EPFO office, furthermore, the petitioner had provided the account details of one Manish who was working with Gupta Consultants. It is further submitted that investigation has further revealed that claim of Manish with EPFO was the first fraudulent claim which was entered by co-accused Uday Singh and the amount of Rs. 12,24,523/- was fraudulently credited in the account of Manish on 25.10.2017 and vide 2$^{nd}$ claim amount of Rs. 35,78,806/- was credited in the account of one Deepak Shajwaan, who is the cousin brother of the petitioner. It is further submitted that investigation has further revealed that the account details of both the accounts were provided by the petitioner to co-accused Uday Singh in furtherance of conspiracy and the investigation further revealed that the petitioner conspired with co-accused Uday Singh and provided details of total 9 bank accounts for the purpose of fraudulent withdrawal from EPFO.

8. In the instant case, it has been argued by learned counsel for the petitioner that co-accused Uday Singh who is the main accused has been admitted to bail. It is further submitted by the Ld. counsel that even before the learned Trial court, the CBI had stated that co-accused Uday Singh is the main accused. The order of the learned Trial Court dated 13.04.2023 reveals that according to the respondent – CBI, co-accused Uday Singh, is the main accused as has been argued before the learned Trial Court who is on bail.

9. The charge sheet in the instant case has already been filed. Most of the manipulated forged data were fed into EPFO portal through the

computers which has already been taken into possession. So evidence in the form of data available on server cannot be manipulated by petitioner if released on bail. All the beneficiary in whose account money has been transferred either received or retained the same in collusion with the accused persons and if not then they were under duty to make effort to return the same to lawful owner and thus they have to explain their innocence by putting fourth their respective action they did for return of money once they came to know of unjustified crediting of huge amount into their account. There are hardly any duty conscious people. Since, beneficiary themselves are in trouble water they could hardly be won over by the petitioner. Other witnesses cited by the prosecution are all official witness and thus officials cannot be won over by the petitioner.

10. Keeping in view the entire facts and circumstances of the case and also the fact that the petitioner is in judicial custody since 06.05.2022, the chargesheet has already been filed and the co-accused Uday Singh who is the main accused is already on bail, the bail application is allowed and petitioner is admitted to bail on the following conditions:-

(i) The Petitioner shall furnish a personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the concerned trial court;

(ii) The petitioner shall provide his mobile phone number to the Investigating Officer (IO) concerned – at the time of release, which shall be kept in working condition at all times. The petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the period of bail;

(iii) The petitioner shall not leave the country without the prior permission of the concerned trial court;

(iv) The petitioner shall not indulge in any criminal activity during the bail period.

11. The application stands disposed of in the aforesaid terms.

12. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

**RAJNISH BHATNAGAR, J**

**NOVEMBER 29, 2023**
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