IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1773-2024 (O & M)
Date of decision: 27.02.2024

Sonu Pandey .... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Shivani Jaglan, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in a case FIR No.1213 dated 30.12.2019 under Sections 420, 406, 467, 468, 471 and 34 IPC registered at Police Station City, District Panipat.

2. The present FIR came to be registered at the instance of Surjit Singh Kuhad and reads as under:-

> *"FIR NO. 1213 dated 30.12.2019 U/S 34, 406, 420 registered at PS Panipat City, Panipat.*
> *Subject: Regarding defrauding money by giving threat of installation of Reliance 4G tower.*
> *Sir, I am Surjit Singh Kuhad working as Junior Engineer in PWD office. I live in house no. 5 in PWD Colony. Sir, first I got a call from Hisar to get a phone tower installed and I was shown very big dreams. First of all, he asked me to get the Reliance insurance done. I sent my documents to Hisar by courier on 02.11.2015. On 16.12.2015, I got insured from*

Reliance Life Insurance. After that, I started receiving repeated calls. Then Neha Sharma started calling from her mobile number 9582850173 and she started contacting me about the tower in February, 2016 and said that you will have to get an insurance of Rs. 1,00,000/- from Exide Life Insurance. It is a subsidiary of Reliance and then your tower will be installed for which you will get Rs.52,000/- per month as rent, monthly salary for a watchman and Rs.45,00,000/- for Advance Tower. I got Exide life insurance for Rs. 99,000/- on 19.02.2016, which were to be automatically deducted from my account. One instalment was paid from my account on 17.02.2016 through cheque No. 144662. My policy was made on 19.02.2016. Later, on 03.06.2017, Rs. 98,202/-was automatically transferred from my account to Exide life Insurance account. Then Neha Sharma told me that the file of your tower has been passed and you should deposit Rs 1,00,000/- for the tower project. He gave me Pradeep Shain's account number 915010019266495 of Axis Bank. I deposited Rs 1,00,000/- in the aforesaid account. Then a call came from Neha Sharma that you will have to deposit Rs. 1,00,000/- more. So, I deposited Rs. 70,000/-in the account of Pradeep Shain in the ATM of Axis Bank on GT Road. Since I did not have money, I asked someone to deposit the money. After that he asked me to deposit the dues. So on 21.01.2017, I deposited it in Pradeep Shain's account through HP-Oxign money transfer. After that, Neha Sharma kept avoiding me again and again on the pretext that a survey in your case is yet to be conducted. Sometimes she used to say that the party to install the tower is in Punjab and will come after 2-3 months. After a few days, her phone got switched off and she was no longer in contact with me. After that, calls started coming from Kuldeep Saxena whose number was 9654186614. Then I started receiving calls from Chauhan by his number 7295854984. Then calls started coming in the name of Nidhi Bhavna and she said that you should get a policy of Rs. 27,000/- done from HDFC *and get your money back by getting your Exide life insurance policy closed. Then, Nidhi Bhavna got me another policy for Rs. 68,000/- through an agent in Panipat on 19.02.2017. Before that, Nidhi Bhavna deposited Rs. 68,000/- in IT Services account no. 385305000058 in ICICI Bank as the processing fee for the tower. She gave me her another mobile no. 7838165654. After a few days, her phone got switched off. And again, I got a call from the mobile phone of Kuldeep Saxena whose mobile number was 9654186614. So I said this number belongs to Kuldeep Saxena, so he made the excuse that the numbers keep changing. After that, calls started coming from PC Kauthari whose number was 9654811403, sometimes for the petrol pump and sometimes for the gas agency and in the name of Pankaj Rathore, stating that he is my assistant. He again sent the complete documents of Reliance Tower and his card, which was of Reliance, to me through my nephew's e-mail account from e-mail ID pankajrathore5@accountant.com on 17.05.2017. The mail allured me with Rs. 45 lakh advance, 10 to 15 years agreement, 2 workers at the salary of Rs.36,000/-per month, 2 free SIM and Rs.52,000/- tower rent per month rent. I kept getting calls from Pankaj Rathore's phone number 9599375912 which I did not answer. I started receiving calls from Ramesh Bhatnagar claiming himself to be from Kaithal Bhatnagar Colony. Thereafter, Deepak Sharma whose mobile number 9870576803 started calling and asked to deposit Rs. 18,313/- in HC Services, which I deposited on 12.03.2018. And to win my confidence, sent a receipt of Rs. 18,313/- bearing No.254123 with agency code Reliance Jio/2361201 to my nephew's mail on 14.02.2018 from mail ID deepaks@iname.com and said that Ramesh Bhatnagar is looking after your case file and you may get the updates from him. Then Ramesh Bhatnagar got deposited Rs. 1,00,000/- in Amit Singh Chauhan's account through RTGS, on 28.03.2018, Rs. 1,37,600/- in Amit Singh*

Chauhan's account through RTGS and on 11.04.2018, Rs. 73,756/- in Amit Singh Chauhan's account. After depositing the money through RTGS, my cheque number 501162 dated 04.05.2018 was deposited in Manish Kumar's account number 20238661111, IFSC Code SBIN0000678, Krishna Nagar, whose mobile number 9958898379 was switched off. Then I contacted Deepak Sharma and he told me Ramesh Bhatnagar's other numbers are 8587881793 and 8448534536. When I called up on these numbers, I was told that these were wrong numbers. Then calls started coming in the name of Sanjeev Aggarwal, whose mobile number was 9667937155, told that please send the request for cancellation of your tower in the name of General Manager, National Payment Corporation of India, you will get your payment back. After a few days, Sanjeev Agarwal's call came again and said that Neha Sharma's house is in Ghaziabad and her brother's mobile number is 9971134710, talk to him. When I contacted him on phone, he said that my sister had just got married and her house would be ruined. When my sister comes home, I will ask her to return your money. Then after a few days, a call came from Sanjeev Aggarwal that your application has been approved, please deposit the processing fee of Rs. 14500/- in Nimphal Mandal whose account number is 435110510010299, Bank of India, Ahoran Branch IFSC code BRID0004351 and he has given his mail ID sanjeevaggarwal9944@gmail.com. I deposited the money. And Ramesh Bhatnagar's new number 8587881793 was also given to me. So I deposited Rs. 14,500/- into that account on 30.01.2019. Then on January 11, 2019, Sanjeev Aggarwal gave another account number which is in the name of Union Bank of India, Name-IGMS India Services, account number 639101010050304 IFSC Code-UBIN0563919 and asked to deposit the money. I did not send the money, then Sanjeev Aggarwal called me that a bank draft of Rs 27,78,690/-has been made and you should deposit security transaction tax of

Rs. 35,690/-. I refused to deposit the money then Sanjeev Aggarwal mailed a copy of the bank draft on my mail ID which was drawn on 11.06.2019 at Nara Bank Bangalore Branch for Rs 27,78,690/- and said that its validity is of 03 months. So I told Sanjeev Aggarwal to send my draft and when it gets cleared I will send you the money. Then he said that the money will have to be deposited first. I said that you send it to your man and I will pay his travel expenses and give him Rs 35,690/-. So he refused. Then I got suspicious and I went to Panipat Canara Bank Branch on the road and showed a copy of this bank draft and prayed to the bank manager. And told that I have been cheated, please see whether this bank draft is real or fake. The manager helped me and after checking online, told me that this draft was fake. Then when Sanjeev Aggarwal called, I said send the draft first, I will not deposit the money. After this I did not pick up the phone. Meanwhile, a call came from Neha Sharma from another number which is 9540368467 and told me that she had met with an accident in which her phone was damaged. She told me that she went to her office and got my number. She asked me if anyone else has taken any money from me in the meantime. I told her. She still messages me on WhatsApp. Her phone is found out of network. But I am getting messages on WhatsApp. She told me that you will get a call from the bank for verification of your payment, you should get the verification done. I request you to take appropriate action against these people and get my money back. SD- Surjeet Singh, R/o PWD (BR), Panipat H.No.5, PWD Colony, Panipat 9466477156".

3. During the course of investigation, the petitioner and his co-accused came to be nominated as an accused.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. In fact, he was

working in Ankush Capital as a cleaner boy on a salary of Rs.8,000/- per month. The alleged offence took place in the year 2016-17 whereas the petitioner had joined the company in the year 2018. There was no bank transfer of any money into the account of the petitioner and nor was his account number mentioned in the complaint made to the police. Pursuant to his arrest, nothing incriminating material had been recovered from him. As he was in custody since 27.07.2023, none of the 23 prosecution witnesses had been examined so far and the case was triable by the Court of a Magistrate, he was entitled to the concession of bail.

5. The learned counsel for the State has filed a reply dated 27.02.2024 which is taken on record. While referring to the said reply, he contends that the petitioner alongwith his co-accused used to call on the mobile phone of the random people and used to dupe them of money under the pretext of insurance and installing mobile towers on their property by offering huge rent. The cheated person used to transfer money in different accounts which were then withdrawn by the accused. Therefore, the petitioner was actively involved in the commission of the offence. Even otherwise, he had confessed to his role in his disclosure statement. Further, he had criminal antecedents having been involved in one other case arising out of FIR/Crime No.266/2019 under Sections 420, 467, 468, 471, 201 and 120(B) IPC, Police Station Khursipar, District Drug (CG). Therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 27.07.2023 and none of the 23 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.*"

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated during the course of the Trial. Admittedly, the petitioner is in custody since 27.07.2023 and none of the 23 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. Further, in the one other case registered against him, he has been granted the concession of bail vide order dated 15.12.2020 passed in case bearing No.MCRC No.6409 of 2020. Even otherwise, the present case is triable by the Court of a Magistrate and no serious apprehension has been 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, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Sonu Pandey is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. 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 case/crime other than the case(s) referred to in this order.

10. In addition, the petitioner (or anybody on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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.

11. The present petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 27, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No