(207)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16272-2024
Date of Decision: 19.07.2024

MD. NAZIR

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Siddharth Sihag, Advocate
for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.26 dated 04.12.2023 registered under Sections 406 and 420 IPC (Sections 467, 468, 471 and 120B IPC added later on) at Police Station Cyber Crime, Hansi.

2. The present FIR came to be registered at the instance of Pardeep son of Dayanand and the same reads as under:-

> *"A To, S.H.O, PS Cyber Hansi. Subject:- Request for taking stringent legal action and registration of case FIR against the accused after ascertaining about their clue/address from following mobile numbers, who committing fraud with complainant and fleeced Rs. 30,37,699/- (Rs. Thirty Lacs Thirty Seven Thousand Six Hundred Ninety Nine) illegally and request for getting returned the above said amount. Sir, I, the complainant submit as under:- 1. That I, Pardeep son*

of Dayanand am a permanent resident of Ward No. 6, Narnaund Tehsil Narnaund District Hisar and my niece Ritu daughter of Kuldeep resident of Narnaund has gone to Canada. 2. That on 06.11.2023, one phone call came from mobile number 447893932571 on my mobile number 9466611392 and said that he was father-in-law of my niece Ritu and his relative is admitted in Gangaram Hospital, Delhi for treatment and he was in dire need of money; and that he was sending Rs. 10 lacs in my account and I should transfer the amount on receipt of phone call of his other relative in his account. Therefore, I gave my account no.4549101004248 Canara Bank, Narnaund to above said accused on mobile. After some time accused sent a WhatsApp message of transaction of Rs.10.25 lacs on my mobile and stated that he has sent the amount in my account and after sometime on receiving the phone call of his relative, I should send the money in the account as told by him. After some time, I received a WhatsApp call on my mobile number from mobile no.9870889304 and the caller stated that his wife was very ill and her operation was to be done in Ganga Ram Hospital, Delhi and therefore, I should immediately transfer Rs.8,50,000/- from my account in his account number which he will send on WhatsApp and further stated that he was in dire need of money and if I would cause delay in transferring the money in his account, then the operation of his wife will not be done. Therefore, I should transfer the money in account no. 1841200100013359 IFSC Code PUNB01844120 branch Raxaul sent by him on my WhatsApp number. Till such time, I had not sent the said amount, he kept on calling after every 5- 20 minutes. Then I, while showing sympathy, got transferred Rs.4,00,000/- on 6.11.2023 from my friend *through RTGS UPI No.52023110651840287 account no.5020003471836 and Rs.2,50,000/- (Rupees Two Lac Fifty Thousand) through RTGS from same account number vide RTGS No. KUPI 520311065194255 i.e. total Rs.6,50,000/- (Rupees Six Lac Fifty Thousand) were transferred. 3. That again on 07.11.2023, at about 11:46 a WhatsApp call was received from the same accused, who was telling himself to be father-in-law of my niece, and stated that despite the operation, the wife of his relative has expired in hospital and without depositing Rs.3,00,000/- (Rupees Three Lac), the hospital officials were not allowing to take the dead body and, therefore, I should transfer the said amount. After sometime, missed calls came from mobile no.9870889304 of Harjeet Singh of Patiala at about 12:58/12:59 PM and 1:38 PM and on seeing the calls, I again got transferred Rs.3,00,000/- (Rupees Three Lac) from my friend's account no.5020004055732 through RTGS vide UPI No.5202311075266539. 4. That again on 09.11.2023, I received a WhatsApp call who stated that a huge amount has been spent on the treatment of his wife and the treatment was continued after taking loan etc. from people and requested me to do some help for returning the money of the people taken as loan and asked me to transfer Rs.1,00,000/- through Phone pay/Google pay on mobile no.7557710114. At this, I transferred Rs.99,000/- (Rupees Ninety Nine Thousand) through Google Pay vide UTR No.331373382981 in account no.40554198230 SBI Bank. Again on 10.11.2023, WhatsApp call was received that there was shortage of money and I should transfer Rs.50,000/- on mobile no.8825463075 of the person to whom he was to give money through Google Pay. At this, I transferred Rs.50,000/- through Google Pay vide UTR*

No.331440049632 Account No.520452000349422 in Union Bank. 5. That similarly again the above said accused stated that loan of lacs of rupees has been incurred on the treatment of his wife and due to this reason he has sold his house/plot and the purchaser have stated to make the payment in few days, but the persons from whom he has taken money, they are requesting to return the amount and, therefore, I should transfer Rs.1,00,000/- through Google Pay today i.e. on 11.11.2023 on mobile no.9798167960. At this, I transferred the said amount also through UPI No.368122989681 account no.50100365588463 HDFC Bank. 6. That as such above said accused kept on demanding money for the whole day by making one pretext or the other and by giving the false allurement, whereupon I transferred the following amounts as per the asking of accused; Rs.2,00,000/- (Rupees Two Lac) on 15.11.2023 in account no.60461775680 IFSC Code MAHB0002044 Branch Motihari, Rs.99,000/- (Rupees Ninety Nine Thousand) on 17.11.2023 through Google Pay on mobile no.8109451966 UPI No.332177828722 from account no.40554198230 SBI, Rs.50,000/- (Rupees Fifty Thousand) on 18.11.2023 through Google Pay No.9812046439 No.332222287302 account No.30193567893 SBI UPI Bank, Rs.1,00,000/- (Rupees One Lac) on 20.11.2023 transferred vide reference ID 332419178962 from ICICI Bank account no.381801500292, Rs.1,00,000/- (Rupees One Lac) from ICICI Bank reference ID No.3324191721037 account no.381801500292, Rs.50,000/- (Rupees Fifty Thousand) from ICICI Bank UPI No.332413761993 account no.381801500292, Rs.30,000/- (Rupees Thirty Thousand) vide No.332431932783 UTR account no.381801500292, Rs.5,000/- (Rupees Five Thousand) vide IMPS

No.332420000357 and Locate ID SANNY706 Rs.5,000/- (Rupees Five Thousand) vide IMPS no.332420000361 Locate ID SANNY706, Rs.5,000/- (Rupees Five Thousand) IMPS No.332420000365 Locate ID Sanny706, Rs.2,500/- (Rupees Two Thousand Five Hundred) vide IMPS No.332420000369 Locate ID Sanny 706. 7. That on 22.11.2023, the accused stating to be father-in-law of my niece again made a WhatsApp call on my WhatsApp mobile number and stated that he had sent a boy to Saudi Arabia for employment and immediately on going there, the said boy met with an accident and is in police custody and he started requesting me that if the said boy was not got freed, he would be defamed and, therefore, he has made a full setting in Rs.13,00,000/- for his release and I should send the amount at the earliest so that he can save the life of the boy because this said boy is only son of his parents and his father has died and he has four minor daughters but are dependent on him. Then I transferred the money in account no.60461775680 IFSC code MAHB0002044 Bank of Maharashtra, Branch Motihari, candidate name Chottu Kumar through Money Transfer, the detail of which is as under, "Rs.25,000/- transaction ID 18649999150 account no.7784002100000070 PNB Bank, Rs.25,000/- ID No.1864999151 account No.7784002100000070 PNB Bank, Rs.25,000/- ID 1864999152 account no.7784002100000070 PNB Bank, Rs.25,000/- ID No.1864999153 account no.7784002100000070 PNB Bank, Rs.25,000/- ID No.1864999154 account no.7784002100000070 PNB Bank, Rs.25,000/- ID No.1864999156 account no.7784002100000070 PNB Bank, Rs.25,000/- ID No.1864999158 account no.7784002100000070 PNB Bank, Rs.3200/- IMPS No.332618093464 and account wallet ID

SANNY706, Rs.5,000/- IMPS No.332618089948 and account wallet ID SANNY 706, Rs.5,000/- IMPS No.332618089951 account wallet ID SANNY 706, Rs.5,000/- IMPS No.332618089954 account wallet ID SANNY 706, Rs.5,000/- IMPS No.332618089985 account wallet ID No.SANNY706. 8. On 23.11.2023, again a WhatsApp call was received from the accused posing as father-in-law of the Ritu and stated that the matter could not be settled with the money sent by me and I shall have to send Rs.2,00,000/- more because it was the question of future of the boy and, therefore, I sent Rs.1,50,000/- (Rupees One Lac Fifty Thousand) through RTGS ID No.327232750124083 account no.50200068048417 HDFC Bank. 9. That on 25.11.2023, again WhatsApp call was received from above said accused that due to not sending the money in a lump-sum for release of the boy, they have started demanding more and as per the asking of above said accused, I transferred the money through Money Transfer, the detail of which is as under, "Rs.1,00,000/- (Rupees One Lac) IMPS No.332915732553 account no.381801501133 ICICI Bank, Rs.20,000/- (Rupees Twenty Thousand). UTR No.332986111896 account no.81750100460164 Sarv Haryana Grameen Bank, Rs.50,000/- UTR No.332997746310 account no.50100276714420 HDFC Bank, Rs.5,000/- IMPS No.332920032262 account wallet ID No.SANNY706, Rs.5,000/- IMPS No.332920032265 account wallet ID no.SANNY706, Rs.5,000/- IMPS No.332920032263 Wallet ID No.SANNY706, Rs.50,000/- ID No.1387122215 account no.381805500048 ICICI Bank, Rs.50,000/- (Rupees Fifty Thousand) ID No.1387120174 account no.381805500048 ICICI Bank, Rs.50,000/- (Rupees Fifty Thousand) ID No.332919168602 account *no.50200033041301 HDFC Bank, Rs.50,000/- (Rupees Fifty Thousand) UTR No.332941119620 account no.3272001500000558 PNB Bank, Rs.50,000/- (Rupees Fifty Thousand) UTR No.332984803866 account no.5010027674420 HDFC Bank and Rs.60,000/- (Rupees Sixty Thousand) UTR No.332926179720 account no.50100142503191 HDFC Bank. 10. That again on 28.11.2023, I received a WhatsApp call from above said accused, who stated that I was his relative and have helped him very much but I should not think that my money would be wasted; and that there was 3-4 days holidays in Banks in Canada and, therefore, I should not worry and on resolving the issue of above said boy, he would return my amount; and that the boy was still in the custody of police and they were demanding more money and, therefore, I should send Rs.3,49,000/- (Rupees Three Lac Forty Nine Thousand) today, whereupon I sent Rs.81,000/- (Rupees Eighty One Thousand) on 28.11.2023 from account no.55145584174 in SBI vide transaction ID 333243255020 through Google Pay on mobile no.9801754793 and Rs.99,000/- (Rupees Ninety Nine Thousand) from account no.55074288368 in SBI transaction ID No.333238934345 through Google Pay on mobile no.7549906421, Rs. 50000/- Rupees Fifty thousand from account No. 50100186407228 HDFC Bank's UPID 333215102202 on mobile No. through google pay, Rs. 50,000/- Rupees Fifty thousand vide account No. 50100261249988 HDFC Bank's UPID No. 333214174321 on mobile No.9111069894 through google pay, Rs. 38000/- Rupees Thirty Eight Thousand vide account No. 50100261249988 HDFC Bank UPID No. 333214812617 on mobile No. 9111069894 through google pay, Rs. 25,000/- Rupees Twenty Five Thousand from account No.*

7784002100000070 and Rs. 5000/- through money transfer IMPS No. 333218053030 Account Wallet ID SANNY706, Rs. 1000/- Rs. One Thousand through money transfer IMPS No. 333218053034 account wallet ID SANNY706. 11. That as such above said accused fraudulently fleeced/cheated Rs. 30,37,699/- Rupees Thirty Lacs Thirty Seven Thousand Six Hundred Ninety Nine from me in an illegal manner by giving allurement of false relation and false assurance, which is wrong and illegal. Accused have a full gang of this fraud and they are playing with people by demanding money and they are entitled for appropriate punishment. 12. That a thorough enquiry be got conducted in respect of above said mobile numbers, google pay mobile numbers sent by those and accounts and after arresting the accused, the amount fleeced from the complainant be got returned. I have given the said money to accused after taking the same from my personal relatives and neighbours and they are harassing me now regarding taking back their money. When I came to know about the above said fraud, since then I have suffered deep shock and remains perturbed. Therefore, I request you that above said gang may be exposed and the amount of rs. 30,37,699/- Rupees Thirty Lacs Thirty Seven Thousand Six Hundred Ninety Nine fleeced from me illegally be got returned. I have hope of getting justice from you and requesting you to impart justice to me and help me in this regard. I shall be thankful. Sd/- Pardeep Kumar."

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The only allegation against him is to the effect that his mobile number was allegedly used in the commission of the offence and that email IDs of various persons had been

found to be operative on the said phone. There was nothing to suggest that any money was transferred by the complainant or any other person into the bank account of the petitioner and nor was his bank account used for commission of any offence. The mobile number was also not linked to any bank account. The petitioner had been implicated in one other case in which he already been granted the concession of bail. As he was in custody since 08.12.2023 but none of the 15 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. A reply dated 10.06.2024 by way of an affidavit of Ravinder Sangwan, HPS, Deputy Superintendent of Police, Hansi has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the said reply, he contends that the present case was one of a cyber fraud. The complainant had been cheated of a huge amount of money. The mobile phone of the present petitioner was found to be involved in the commission of the offence. The bank account and Gmail ID used in the commission of the offence were found to be operated from the mobile phone of the petitioner. Only two of the seven accused had been arrested till date. The seriousness of the allegations did not entitle the petitioner to the grant of bail. He, however, concedes that the petitioner was in custody since 08.12.2023, none of the 15 prosecution witnesses had been examined so far and that in the one other case registered against him, he had been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. 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 upon during the course of the Trial. Admittedly, the petitioner is in custody since 08.12.2023 but none of the 15 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. There are no serious apprehensions 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, in this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Md. Nazir son of Ajij Miya is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/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 crime other than the cases mentioned in this order.

10. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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 petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.07.2024
JITESH

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