(222)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17850-2024
Date of Decision: 24.05.2024

PRATYUSH RANJAN @ DEEPU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Priyanka Deo, Advocate and
Mr. Amit Kumar, Advocate
for the petitioner.

Ms. Aditi Girdhar, Asstt. A.G., Haryana.

Mr. Rajesh Gupta, Advocate and
Mr. Karnail Singh, Advocate
for the complainant.

****

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.58 dated 12.12.2022 (Annexure P-1) registered under Sections 419/420 IPC (Sections 467/468/471/120B IPC and Sections 66C & 66D of IT Act added later on) at Police Station Cyber Crime NIT, Faridabad, Haryana.

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

> *"To, the SHO Cyber Crime NIT Faridabad Sub- Regarding fraud of Rs. 39 lakh in the name of giving franchise of Burger King. Sir, it is requested that I am Rajeev Sharma S/o*

Shrichand Sharma R/o H.No.-100, Mahesh CGHS Sec-21C Faridabad. I was searching on Google to get Burger King Franchise in September 2022, then I found a site by the name of Burger King Franchise, I clicked on it and came to fill the form, in which I entered my email id and mobile number. Entered my email id- rajivsh1971@gmail.com and M.No. is 9717423252. After that I got an email from info@burgerKingFarnchaise.in, in which they asked for documents from me and during that time I got a call from M.no.-7890140252, in which he told his name as Gaurav Bansal CRM Burger King and asked me for information and I sent Aadhar Card, PAN Card, Bank Statement Educational Certificates and photo on 25/11/22 to his mail ID. After that they asked me for documents from Burger King's mail ID and sent them to my mail ID. Copies of the same are attached. To get the franchise in the name of my wife Ritu Sharma, I sent all the documents as told by me, got my wife's signature on all the documents and sent them to her email id, after that they charged me Rs. 2, 65,500/- in the name of Franchaise Registration Fee, later Rs. 5,90,000/- in the name of Opening Inventory/NOC, after that Rs. 11,80,000 (10 Lakh + 1,80,000) in the name of License and Legal Accounting, after that Rs. 12,75,000/- (5 Lakh +5 Lakh +2.75Lakh) in the name of Machine and Equipment, in which receipt of some payment has been given to me. After that I received call from M.No.9088037314 of Amit Srivastva, Burger King and he said that your file has come to me, I have sent this amount to 3 bank accounts given by them, which are of Canara Bank-A/C No. 110080686442, CNRB0002840, 2. A/C No. 110084817397,-do- 3. A/C No. -110069829830,-do- I transferred this amount of Rs. 2,75,000 from my Bank A/c No.004001551360 Branch

> *Greater Noida west. I transferred the remaining amount from my wife Ritu Sharma's Bank A/c 414601505108 Branch Gr. Noida (w) as Approx. Rs.36,25,000/-has been sent, its statement is attached. I was defrauded of Rs. 39 Lakh in the name of giving me the franchise of Burger King. You are requested to please take action and get my money back. Thank you. Applicant -sd Rajiv Sharma."*

3. During investigation, a reply was sought from Burger King regarding the documents which were sent to the complainant. As per the said reply, the documents in question were forged. Therefore, Sections 467, 468, 471 IPC were added.

The record pertaining to the three accounts mentioned above were obtained from the Canara Bank. Account No.110080686442 was found in the name of Shivam son of Ramchander Rai. He was arrested on 05.09.2023. He disclosed that he had given the Bank kit to his co-accused Ajay Kumar @ Raja. Shivam also got recovered his PAN Card used for opening the bank account No.110080686442 and Rs.7000/-.

Ajay Kumar alias Raja was arrested on 05.09.2023. He disclosed that he had given the bank kit of the account No.110080686442 to his co-accused Akash and Pratyush Ranjan @ Deepu (petitioner). He got recovered Rs.8000/-.

Akash was arrested on 13.09.2023 and disclosed that the bank kit of the account was given to Pratyush Ranjan @ Deepu. Akash got recovered Rs.8000/-.

Pratyush Ranjan @ Deepu was arrested on 13.09.2023. He admitted that he had supplied the bank account to his co-accused namely, Roshan and Sashikant who used them and got transferred Rs.20,00,000/- from the complainant-Rajiv Sharma and his wife Ritu Sharma. The petitioner produced Facebook Messenger chat records with his co-accused Akash (12 pages) which were taken into possession. He also got recovered Rs.18000/- in cash.

It was found that the second bank account of Canara Bank bearing No.110069829830 was in the name of Rahul Yadav son of Lakshman and Rs.8,65,001/- had been transferred into his bank account by the complainant. Rahul Yadav was arrested on 11.09.2023 and disclosed that the kit of the bank account No.110069829830 had been given to one Prince. Rahul Yadav also got recovered his Aadhar Card and PAN Card along with Rs.6000/-.

The third bank account bearing No.110084817397 of Canara Bank was found to be in the name of Mohd. Adil son of Khurshid and Rs.10,00,000/- had been transferred into the said account.

The report under Section 173(2) Cr.P.C. was presented against Shivam, Ajay Kumar alias Raja, Rahul Yadav, Pratyush Ranjan @ Deepu and Akash Kumar. The arrest of Prince, Roshan and Shashikant is awaited.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He has not been named in the FIR but only in the disclosure statement of his co-accused.

There is absolutely no connection of the petitioner with any of the other accused. The recovery of Rs.18,000/- had been foisted upon him. As he was in custody since 13.09.2023 but only 04 of the 19 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 moreso when the case was triable by the Court of a Magistrate.

5. A reply dated 22.05.2024 by way of an affidavit of Abhimanyu Goyat, HPS, Asstt. Commissioner of Police, Cyber Crime, Faridabad has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. She along with the counsel for the complainant contend that the petitioner and his co-accused have cheated the complainant of a huge amount of money. The nature of the allegations levelled against him did not entitle him to the grant of bail moreso when he was a habitual offender with one other case registered him arising out of FIR No.226/2021 dated 11.07.2021 under Sections 419, 420, 467, 468, 471, 34 IPC, P.S. Deep Nagar, District Nalanda (Bihar). They however concede that the petitioner was in custody since 13.09.2023, only 04 of the 19 prosecution witnesses had been examined so far and that the case was triable by the Court of a Magistrate.

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.*"

8. 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 13.09.2023 and only 04 of the 19 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.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pratyush Ranjan @ Deepu son of Sanjay Prasad is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. 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.

11. The petitioner (or anyone 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

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

24.05.2024
JITESH

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