IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRM-M-18533-2024

Date of Decision:-29.05.2024

Aditaya.

......Petitioner.

Vs.

State of Haryana.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Laxman Choudhary, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General, Haryana.

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JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.0067 dated 13.04.2023 under Sections 34, 406, 420, 467, 468 and 471 IPC registered at Police Station Nizampur, District Mahendergarh.

2. The present FIR came to be registered at the instance of Naresh Yadav and reads as under:-

> " *To, Superintendent of Police. District Mahendragarh. Narnaul. Subject: Complaint regarding legal action against the accused Aditya and Virendra alias Veeru for preparing fake documents and embezzling Rs. 22 lakhs by passing off the fake documents as original. Sir, the following is the complaint: 1. That 1 Naresh Yadav, son of Shri Shishram Yadav, I am a permanent resident of Bamanwas No Tehsil Nangal Chaudhary District Mahendergarh and am preparing for a government job. 2. That Virendra alias Veeru, son of Hiralal Shastri, resident of Ward No. 1. near Shyam Mandir Behrod, Rajasthan Mob. 9587231111, has*

been coming to the temple of Shyam Baba in our village for the last 10-12 years and as a family, we and Virendra are living well. Taking advantage of this fact of identity, Virendra told me that his relative Aditya alias Chhotu son Rajneesh, resident of House No. 490/35 Janta Colony. Rohtak, is working as a Section Officer in University Grant Commission, mobile no. 7419070691, who takes money to get you a job on the post of a clerk. If you give me Rs. 11,00,000/- (eleven lakh rupees) then I will get you a job on the post of a clerk in Delhi University. According to him, my family members will pay and agreed to pay Rs. 11,00,000/- (eleven lakh rupees) in exchange for the job. 3. That Virendra made me talk to Aditya and as per his instructions, I sent all my documents to Aditya in Rohtak and on 19.07.2021, Rs 5,50,000/- in cash was given to Virendra alias Veeru at our house in village Bahamanwas, in front of Suresh Sarpanch and Vishwas Sarpanch and gave the cheque number 671101 dated 26.07.2021 of Rs 5,50,000/- of Sarva Haryana Gramin Bank which was given from my father's account. 4. That in August 2021, Virendra and Aditya called me and got my medical examination done and made two demand drafts in the name of University Grant Commission, Delhi and sent me a paper to get the police verification done, which I got the police verification done and sent it to the above two. On 28.11.2021, the above two made me stay at Mark Hotel, Rohtak and Virendra alias Veeru was also staying with me and from there they got my online interview done through Google Meet application and said that your performance was not very good, if you want to get selection. It will take some more money and we will arrange the interview again. Hearing this, my father immediately transferred Rs 1.70,000 to Virendra's account (account number 18391530003370 HDFC Bank). 5. That on 03.12.2022, the above mentioned Virendra and Aditya made me stay at Lagan Hotel, Rohtak and then got my online interview done from there on 06.12.2022 and assured me of joining but after a few days they stopped picking up my phone. And after contacting repeatedly, one day Aditya called and said that there is some problem, if you give me Rs. 9,00,000/- (nine lakh rupees) more then, I can get your joining confirmed. As per his instructions, on 14.03.2022, 1 transferred Rs 2,00,000/- in cash and Rs 2,00,000/- to Aditya's account (Account No. 920010021965977, Axis Bank) *through RTGS from Vishwas Sarpanch's account and Rs 50,000/- Online payment was given from Ratan's account and Rs. 1,00,000/- from Google Pay Ranjeet's account and Rs. 3,50,000 was given in cash to Maina Tourism Rohtak. 6. That on 05.04.2022, Aditya called me to Delhi University South Campus Delhi for joining and got the ID card form filled there and an appointment letter order no. 037132/2022 issued by Registrar. Delhi University even after this, the above two kept postponing my joining date by making some excuse or the other and on 02.05.2022, Aditya gave me the second appointment letter order number 051 TG issued by HOD. English Department, DU. And I was asked to open an account for salary in SBI Bank and I opened the account as per the instructions, prepared all the documents for joining and account passbook in PDF file and mailed it on the mail ID given by Aditya on date 17.05.2022, Aditya gave me a letter serial number 029/2022 issued by Addl. Secretary (admin), DU, to take charge and said that your joining is confirmed from 23.05.2022 and salary will start. 7. That on 23.05.2022. Outside the office D.U.. Aditya got the service book and all the joining formalities completed and said that you will have to do field work for 6 months and you will only coordinate with me for the work. The above-mentioned Aditya kept telling me the field work on the phone and I kept delivering and receiving the parcel as per his instructions. On 06.06.2022. Rs 13,700/- was credited to my account as salary, after that my salary stopped coming when I asked Aditya, then he said that there is some problem in document verification. it will be resolved soon as long as I transfer the expense money to you and in between Aditya transferred some money to me as expense. 8. That after this Aditya and Virendra switched off their phones, when I reached DU South Campus. Delhi with my family members on 20.02.2023 to inquire about the address, I came to know that no section officer named Aditya was working there and nor did I get any job through the joining letter given by him. All the documents given by him were fake and fake (All the fake documents given by the accused are attached with the application). Therefore, by presenting the application, I request that the above two Aditya and Virendra alias Veeru prepared fake documents with the intention of cheating me. And with the intention of deceiving and defrauding those forged documents,* *knowing that they were forged documents, they cheated and defrauded me by presenting them as original documents and cheated and defrauded me by presenting them as documents prepared by a public servant in his official capacity, 22 lakh rupees were grabbed from us. Strictest action should be taken against them and I should be given justice. Date Signature Naresh Yadav."*

3. During the course of the investigation all the documents relating to the fake joining of the complainant in Delhi University were taken into police possession. Aditya (petitioner) was arrested on production warrants on 02.05.2023. He suffered his disclosure statement admitting to have committed the offence and explained the manner in which he had spent the money. He got recovered Rs.1 lac from his house which was taken into police possession.

On completion of the investigation, the report under Section 173(2) Cr.PC came to be submitted against the petitioner whereas his co-accused Virender @ Veeru is still absconding.

4. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The allegations levelled in the FIR were completely baseless. There was one other similar case pending against the petitioner in which the complainant himself was a co-accused along with the petitioner. As the petitioner was in custody since 02.05.2023 and only 02 of the 20 Pws had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner was not required, moreso when the case was triable by the court of a Magistrate.

5. The learned State counsel on the other hand contends that serious allegations had been levelled against the petitioner and his co-

accused. They had taken a huge amount of money from the complainant with a view to provide him a job but did not do so. Forged documents of employment had been handed over to the complainant. Therefore, the petitioner was not entitled to the concession of bail. He however, concedes that the petitioner was in custody since 02.05.2023, only 02 of the 20 Pws have 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-M-24033-2021(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, he is in custody since 02.05.2023 and only 02 of the 20 Pws have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. Nothing significant has been pointed out by the State that the petitioner would abscond from the Trial, tamper with the evidence or influence the witnesses, if he is granted the concession of regular bail. Therefore, his further incarceration is not required.

9. Thus without commenting on the merits of the case, the present

petition is allowed and the petitioner-**Aditaya** son of Sh. Rajnish Kumar is ordered to be released on bail subject to 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. In addition, 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 in accordance with law in case of the absence of the petitioner from the Trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 29, 2024
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***