2024:PHHC:130511

338 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19975-2024 (O&M)
Date of decision : 01.10.2024

Ajay Sharma ....Petitioner

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. L.M. Gulati, Advocate for the petitioner.

Mr. Sandeep Singh, Addl. A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. read with Section 437(6) Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.0332 dated 25.07.2022 registered for the offences punishable under Sections 120-B, 406, 420 of the Indian Penal Code, 1860 (lateron added Sections 467, 468, 471 of the IPC) at Police Station Model Town Panipat, District Panipat.

2. At the outset, counsel for the petitioner prays that the present petition be treated to be the one under Section 483 of the BNSS 2023.

3. The prayer is allowed.

4. As per the allegations levelled in the FIR, it was alleged as under :

> "To, Respected Superintendent of police, District: Panipat (1) Vijay Sharma s/o Subhash Sharma 88169621172, 9466188890, (2) Monika

Sharma w/o Mr Vijay Sharma 9518852091, (3) Ajay Sharma s/o Subhash Sharma 8572000894, (4) Saroj w/o Mr Subhash Sharma, (5) Savitha d/o Subhash Sharma, (6) Subhash Sharma s/o Mr. Lakshmi Narayan Sharma r/o house No.775 Asand Road, Jyoti Nagar, Panipat (7) Sonu brother-in-law of Vijay Sharma r/o village Kalawad, District Rohtak, (8) Virender Kaur 9811736744 r/o Kultana District Jhajjar, (9) Pawan r/o Bhudha Kheda, District Jind 8295594324, under the pretext of giving hafety benefit in the contracts of Refinery Bholi, under the allurement of same with conspiracy and fraud, in connivance with each other all the above-mentioned conspired, under which false emails, false documents were prepared and by preparing false balance sheet of bank of an amount of Rs.23.47 Crore and false application and preparing false balance sheet showing pending payment towards company, from Rajesh an amount of Rs.11,25,00,0000/- and from Satish @ Sitti and amount of Rs.1,40,00,000/- and from Ravinder an amount of Rs.2,60,00,000/- were taken away by cheating, regarding taking action of the same the present complaint is given. Respected Sir, I Rajesh son of Sh. Ghyasan Mal, Caste Parjapati, resident of House No.9/30, Street No.03, Ward No.30, Raj Nagar, Panipat, I and my father used to run a brick kiln. Om Bhatta Company Village Paldi is in the name of my father Gyasan Mal and in Om Bhatta company village Mandi, I and Dilawar Singh r/o Panipat, Mob: 7620000008 are the shareholders. We have been running these brick kilns for a long time. No profit was being made even after putting a lot of rupees in the kilns and I also wanted to do some side business, Satish @ Seti s/o Govardhan Prajapati r/o Panchi my aunts boy was associated with Vijay Sharma for about 4-5 years. Vijay Sharma used to take contracts in Bohali refinery and supplied goods and even after investing a lot of money in your bank, there was no profit and Vijay Sharma was used to take contracts in Bohali refinery and used to describe himself as a firm employee in Bohali Refinery, also used to maintain good rapport with the officers. I and Satish met with Vijay Sharma and his family, as Vijay Sharma and his family members had taken guarantee of every kind and stated that Vijay Sharma is a government employee. Our formed company takes contracts through Balaji Trades, Shiv Sales, and Lakshminarayan Trades Company, sometimes 10 percent, sometimes 20 percent and sometimes less and more left with us if, even if you borrow money from your relatives @ 2% then after paying their money back with interest you can save up to

4,6,10 percent. On asking Ravinder s/o Ramphal also said that he is associated with Vijay Sharma from last 4-5 years, money comes with interest on time and even after returning money to relatives you can saves profit of 4-5-10. Vijay Sharma and his family prompted me to do this work by taking every kind of guarantee. I told all these above things to all my relatives and friends, who after seeing the transactions of our kilns, they agreed to pay money of all the interest after seeing our good fortune and after seeing the behavior of Satish and Ravindra towards Vijay Sharma and family's behavior towards returning money and taking guarantee, I was convinced and started taking money from relatives and friends on interest at the rate of Rs.2 per hundred, the relatives and knowns and real uncle and family members, near and dear also invested the amount which was with them and picked the money from everywhere, from where they could pick and invested, they can give their balance sheet upon enquiry, my father-in-law Balkishan has given his police retirement Rs.45 lakhs and my brother-in-law Vijay has raised about Rs.80 lakhs from the village on interest and given it to me, In this way many relatives have given money to me after retirement the list of which I will present during the investigation. On dated 05.04.2021 Om Bhatta company account No.0170802000647 sent Rs.6 lakh to Satish kiryana store, Rajesh sent in account No.3592050010321 of ICICI bank as Satish sent the said money in the account of wife of Vijay Sharma or paid the same in cash, the said record and information can be given by Satish only. On dated 07-04-2021 Om bhatta company from company's account send Rs.7 lakh to Satish kiryana store. 3. On dated 07-04-2021 my father in law Balkishan from his HDFC Bank account no.50100116883890 RTGS sent Rs.15 lakh to Satish Kiryana Store. 4. On dated 07-04-20210m Bhatta Company through RTGS Rs.10 lakh sent to Satish Karyana Store. 5. On dated 08-04-2021 from the bank account of Om Bhatta Company Rs.8 lakh sent to the Ravinder's HDFC bank account no.50200057017442. (6) On dated 8-04-2021 Om Bhatta Company Rs.12 lakh sent from the account of the Om Bhatta Company to Satish Kiryana store. (7) On dated 22-04-2021 Rs.10 lakh sent to Satish Kiryana Store. (8) On dated 26-04-2021 Rs.7 lakh and 40 thousand were given by Rajesh to Vijay Sharma in cash near HDFC Bank GT Road, Panipat in City, the mobile location of both can be matched. (9) On dated 16-07-2021 Rs.8 lakh from account of Om Bhatta Company sent to Satish Kiryana Store. (10) On dated 31-07-2021 Rs.10

lakh from account of Om Bhatta Company sent to Satish Kiryana Store. (11) On dated 19-09-2021 Rs.4 lakh from account of Om Bhatta Company sent to Satish Kiryana Store. As in the account of Satish total amount of Rs.97,40,000/- was paid and Vijay Sharma paid an amount of Rs.88,50,000/- in the account of Monika Sharma and Satish from the account of Om Bhatta Company on different dates. The remaining amount of Om Bhatta Company amounting Rs.8,90,000/-. According to the above account holders Ravinder and Satish stated that, "we have been putting in the account number 675110110014738 of Vijay Sharma's wife Monica from time to time at the behest of Vijay Sharma. Satish is not well educated he is not aware about the mobile and cyber crime. In 2021, Satish's mobile 9466188890 was taken from him because he started using attached account number 359205001032 and created his fake ID and start using it in the account. As Satish also used to send the amount through google pay and net banking after receiving the same to the account of his wife Monika or in the account of other known person. As and when I was in need of money at Brick kiln, he used to send the same in the account of Om Bhatta Company. On dated 21-01-2022 Satish Kiryana Store from its HDFC bank account no.01718020000647 sent Rs.8 lakh and 50 thousand to Om Bhatta Company and on the same day, cash was withdrawn from Om Bhatta, the same was given by Vijay Sharma through Bank to Bhupender, resident of Raj Nagar, Panipat in my presence as per my asking at my office at Plot Bhijol, mobile location of all three of us can be matched after getting the same. On 27.01.2022, an amount of Rs.8,50,000/- from the account of Satish was transferred to the account of Om Bhattta, as per the asking of Satish and Vijay Sharma on the same day an amount of Rs.8,00,000/- was withdrawn by Bhupender and after coming to my office at my plot at Bhijol same was given to Vijay Sharma after counting, mobile location of all three and call details be called, the same can be matched. On 15-04-2022, a cheque of 14 lakh 50 thousand was given to the account of Satish Kirana Store by Vijay Sharma, whose amount was not received by Om Bhatta Company and that cheque bounced. At that time also, I did not have any doubt about Vijay Sharma, if I would have doubt, then he used to reply quickly and used to satisfy me, he used to present himself as purchase manager in Refinery Bholi and just to satisfy me he show me colour photo of his identity card, photocopy of the same is annexed herewith. From July 2021 till date 08-06-2022, Vijay Sharma used to come to my office Bhijol almost daily in relation to the transaction and used to sit for a long time. We both had invested amount in Bholi Refinery Panipat, what work was going on, we used to discuss and I was assured to the extent that, I started considering him as my elder brother. On the demand of Vijay Sharma, I had borrowed money from my relatives and real uncle and family members and friend and from other places, the said amount was received at my Bhijol Office at Panipat, his mobile, my mobile be investigated about location and call details so that, truth can come out, details of the same are like that: (1) On dated 30- 01-2022, 30 lakhs in cash, (2)On dated 03-02-2022, 31 lakhs in cash, (3) On dated 06-02-2022, 14 lakhs in cash, (4) On dated 07-02-2022, 58 lakh in cash, (5) On dated 08-02-2022, 15 lakh in cash, (6) On dated 10-02- 2022, 8 lakh in cash, (7) On dated11-02-2022, 25 lakh in cash, (8) On dated 15-02-2022, 71 lakh in cash, (9) On dated 21-02-2022, 23 lakh in cash, (10) On dated 24-02-2022, Rs.2 lakh in cash, (11) On dated 25-02- 2022, Rs.47 lakh in cash, (12) On dated 26-02-2022, Rs.29 lakh in cash, (13) On dated 27-02-2022, Rs.12 lakh in cash (14) On dated 28-02-2022, Rs.18 lakh in cash (15) On dated 02-03-2022, Vijay Sharma deposited Rs.7lakh cash from Rajesh Bijoul's office at Satish Kirana Store. (16) On dated 03-03-2022, Rs.12 lakh in cash (17) On dated 04-03-2022, Rs.13 lakh in cash (18) On dated 05-03-2022 an amount of Rs.9,50,000/- in cash for supplying material at LNT was fixed, on the same day, an amount of Rs.4.00 lakh received in cash, (19) On dated 06-03-2022, Rs.15 lakh in cash, (20) On dated 08-03-2022, Rs.15 lakh in cash, (21) On dated 09-03-2022, Rs.5 lakh in cash, (22) On dated 12-03-2022, Rs.17 lakh in cash (23) On dated 16-03-2022, Rs.20 lakh in cash (24) On dated 21-03-2022, Rs.30 lakh in cash, (25) On dated 25-03-2022, Rs.64 lakh in cash (26)On dated 06-04-2022, Rs.32 lakh in cash, (27) On dated 07-04-2022 Rs.18 lakh in cash, in which Vijay Sharma deposited Rs.15 lakh in account of Satish, which were received from the account of Manish Sharma (28) On dated 08-04-2022, Rs.74 lakh in cash, (29) On dated 15-04-2022, Rs.45 lakh in cash, (30) On dated 20-04-2022, Rs.10 lakh in cash, (31) On dated 27-04-2022, Rs.42 lakh 50 thousand in cash, (32) On dated 28-04-2022, Rs.17 lakh in cash, (33) On dated 01-05- 2022, Rs.10 lakh in cash, (34) On dated 04-05-2022, Rs.42 lakh and 10 thousand in cash, (35) On dated 13-05-2022, Rs.23 lakh in cash, (36) On dated 23-05-2022, Rs.7 lakh in cash, (37) On dated 27-05-2022, Rs.45 lakh in cash, (38) On 01.06.2022 Vijay Sharma and his brother Ajay Sharma came to plot at Bhijol and took away Rs.66 lakh in cash and as a security two cheques were given, issued by Ajay Sharma Khalbhandar, the guarantee amount of same was Rs.3 Crore and Rs.4 Crore. Photocopies of the same are annexed, my and his mobile number location in the bank be checked. (39) On dated 03-06-2022, Rs.45 in cash, (40) On dated 05-06-2022, Rs.55 lakh in cash, total amount is 11 crore 41 lakh and 10 thousand. The above-stated amount was given by me because the false emails created by Vijay Sharma, which were regarding supply of material to Bholi Refinery, which were in crores and crores rupees, I thought that in the refinery this much amount is required, now I came to know that these emails etc. were used to be prepared by him on his mobile falsely and he used to send the same on my whatsapp mobile. The cheque sent by him and all the bogus documents sent by him and recording I will produce during the investigation. Vijay Sharma has stated that he will clear all the balance upto March 2022. I had to return that the interest of relatives and my real uncle, tau, and family members and other friends alongwith principal, therefore, I asked him many time to return the money, Vijay Sharma show me a handwritten complaint, in which account number 10565722655 of SBI Panipat was given and a seal was put, in the said complaint he has shown an amount of Rs.23,46,00,000/- in the said account. The said application was written on 12.05.2022 and seal of the bank was there, which was shown to me and was sent to my whatsapp number, whereas I came to know this account is in the name of his father Subhash and it seems that a bogus stamp of the bank was put on the same, I have been misguided by preparing bogus papers and by using the same. Therefore, I thought that amount is lying in the bank and now we have received the colour copy of this bank only which is given in Vestige Marketing Private Limited showing an amount of Rs.6.00 lacs, I am annexing the same also with the present complaint, this is also not signed by Subhash, Vijay Sharma and Subhash have misguided the company with regard to cheque and application, regarding the photocopy, a serious investigation is required. After March 2022, Vijay Sharma was not returning the money despite my repeated requests and said you have to go to Delhi in car with both Rajesh and Satish, there Balwinder Kaur mobile number 9811736744 will be found in LNT company and will give you a closed bank of Rs.1 crore, so that I can return your money. I have a lot of money stuck in L&T company, I talked to Balwinder Kaur from my mobile no.9896400655, then she said meet me at Karnal bypass, there we called Then she called us near Jahangirpur metro station, We went there and she asked for half of the torn note of Rs.10/- given by Vijay Sharma, she also had the torn part of the note and matched these notes and then he gave the locked bag to us, we came and gave that bag to him at the Vestige office in Samalkha, the call details and location of I, Satish and Vijay Sharma of that day should also be checked. Then Vijay Sharma made an excuse that I have to give this money to someone, I will give it to you tomorrow. Whereas later on it came to my knowledge that in the said bag there were documents only and except that there was nothing. Balwinder Kaur and Vijay Sharma have made fool of us under a conspiracy so that we can be satisfied. The said Balwinder Kaur, who is introducing herself as resident of Kultana, District Jhajjar, she is also involved in the said gang and conspiracy. Vijay Sharma is married in village Kalavad District Sonipat, his brother-in-law Sonu is also involved in this conspiracy because when Vijay Sharma used to sit in my office, he used to talk about money transactions again and again and he remains active this work with Vijay Sharma. As and when on the occasion of some festival, I was used to come to my sister at Panipat, we were used to talk to him in this regard, than he used to say that, there is no need to worry I am guarantor in this matter. Vijay Sharma used to take huge amounts of cash also and it may be a case that Vijay Sharma was used to send amount in her account also and Vijay Sharma and his brother-in-law (Sala) Sonu were used to make conspiracy for cheating the persons for money. As Vijay Sharma has given the money looted from us and other persons to his brother-in-law (Sala) Sonu, they have got started the work of iron sales at Rohtak. Sonu Sharma and Vijay Sharma are fully involved in this entire conspiracy. Please check that too. Pawan resident of Bhuda Kheda District Jind caste Nai Mobile 8295594324 is also involved in this conspiracy because When we had doubts, he used to say talk to some refinery officer, then Vijay Sharma used to call him and Vijay Sharma used to on the speaker of mobile phone and Pawan used to speak on mobile that I am an officer in the refinery, Vijay Sharma is my employee, there is nothing to worry, there in IOCL Sikander Babu Ji is ED Sahib, becoming Vijay Sharma's father, he used to talk in different voices and was a member of Vijay Sharma's team in all this conspiracy, we will understand all this later. Call details and mobile location of Vijay Sharma and Pawan should be investigated by getting the same, which will clarify that on 09.05.2022 there was no ceremony of daughter of Ajay Sharma, his maternal uncle/mama etc. had gone by taking for Pilia ceremony, Vijay Sharma and Ajay Sharma had made the program of party. I, Rajesh, Satish Dilawar had also gone in that program and all the family of Vijay Sharma and Ajay Sharma were present. On our discussing Subhash Sharma, Ajay Sharma, Vijay Sharma, Vijay Sharma's wife Monica Sharma, Vijay Sharma's mother Saroj and Ajay Sharma's sister Savita Sharma hatched this conspiracy after consulting and said don't worry about money, will get with timely benefits, we are all guarantors, all above-stated are involved in the conspiracy. On dated 01-02-2022, Vijay Sharma took me and Sonu Kohand to Mumbai and used to say that I have a lot of money pending in the companies of IOSL, Come on, I will show you, we stayed in Mumbai on dated 02-02-2022 and we did this journey by Indigo airlines, as Vijay Sharma stated that his entry is ban in those offices, after roaming in companies at different places he came back and made fool of us. Now in June 2022, I needed a lot of money, relatives began to harass, I told Vijay Sharma to arrange money from anywhere, get my money back, He said Rs.6 crore 83 lakh will meet NLT office Delhi and on dated09-06-2022 at 9:30 AM, I reached Delhi with my partner Dilawar and Satish, on that day we firstly go to Vestige's office, from where he told an excuse to take some payment, but never got anything out of there, from there took us to L&T Office Bikaji gamma at around 2:30 in the day, but there was no LNT office then he called alleged Balwinder Kaur there and said that "please make my payment of 6 crores 83 lakhs fast," she said yes in front of us that she will get it done tomorrow, we all four stayed at the Bikaji gama Hyatt hotel, then in the morning spoke to Balwinder Kaur, she told that today payment will be received, but after breakfast at around 11 o'clock, talking to someone on the mobile got down from the hotel, then he talked to me on mobile at 11:13 am that the payment will be received by 2 pm, after not coming up for some time, I called both his mobile numbers 8816962172 and 8307881068 after about 15 minutes but both his mobile numbers were switched off. By making fool of all of us and by switching off his mobile he went to his safe place, we informed the whole incident to his father Subhash, instead of Subhash, Vijay' brother of Ajay Sharma came to us and got lodged a complaint at Bikhakjigama Hayat Police Chowki with regard to missing of Vijay. While this is the truth, Vijay Sharma is in touch with the whole family and is not missing anywhere, with intention to not to return the

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money, they are hatching this conspiracy. On dated 16.06.2022 or may be 17-06-2022, I, Ravindra and Vikas went to Vijay Sharma's house and all the matter was discussed, Vijay Sharma's family had no problem with his missing.. On talking about money, Subhash Sharma, Ajay Sharma, Saroj w/o Subhash Sharma and Monica w/o Vijay Sharma got furious and and they gathered and said if you come to our house to ask for money again, then they will shoot them with a pistol. Still we said that if you want to find Vijay Sharma somewhere, we will go with you. Satish @ Seete s/o Govardhan caste Prajapati r/o Panchi Jatan also demands Rs.1 crore 40 lakh from Vijay Sharma, as Satish is having full diary, written by hands of Vijay Sharma, in which all details are available. In the same way Ravinder s/o Mr. Ramphal caste Rohilla r/o Panchi Jatan District Sonipat also demands Rs 2 crore 60 lakh fron Vijay Sharma and Ravindra has the writings and proof of all this details. Affidavits of the above stated are also annexed herewith. In Vijay Sharma's family, father Subhash is retired from the army and would have taken only 20-25 thousand pension and brother Ajay is also not on government job, Monika w/o Vijay Sharma is also a housewife, but today Vijay Sharma and his family have many expensive vehicles, many houses and many plots and a lot of gold and live a very expensive life. All this is made out of fraudulent money, now Ajay Sharma and Subhash Sharma say that we have disowned Vijay Sharma, he used to take medicine for mental problem and we have got prepared the certificate of mental, nobody can do anything to us. While the whole family lives in the same house, photo of the whole family buying a car, videos of Vijay Sharma while doing seminar in Vestige Company and I will present photos and videos of other programs during the investigation. Vijay Sharma, Ajay Sharma, Monika Sharma, Subhash Sharma, Saroj Sharma, Savita Sharma, Sonu Sharma, alleged Balwinder Kaur and Pavan all of the above stated have been fraudulent, forgery, fraudulently by making all the above written false documents, through networking on mobiles, by sending false documents on mobiles to us, all the above team has conspired and cheated us, I and my relatives and the persons who had given money to me on interest and the friends who are connected to me and relatives all have become beggars, savings of whole life, respect, value has been snatched by these persons, I am unable to earn that much money and pay interest payers and we have lost the respect in the society, the above accused are also threatening that we will soon move the whole family abroad, no one can stop us. Please stop

> these people from going to abroad. Me and every person associated with me left with no other option but to end ones lives just because of these above stated accused, in this incident I and my relatives and my uncle, Tau and my near, dear and friends and the persons who are connected to me and my friends, from whom we have received money can die by getting a shock, heart attack, due to starvation and tension, then the same would be considered as death of these persons due to the torture by these persons and the above accused have forced the deceased to die, please take legal action against above accused and get my money back. It will be so kind of you. On dated 23-06-2022 subject Rajesh s/o Mr. Gyasan Mal caste Prajapati r/o house No.9/30, street No.03, Ward No.30, Raj Nagar, Panipat, Mobile No.9896400655, 8276000055. Police Station- After receiving a complaint No.891-Peshi dated 23.06.2022 through post in the Police Station, investigation was carried out in the present case by Station House Officer, P.S. Model Town, Panipat. After the investigation and as per the orders of Higher Officials, from the contents of FIR offence under Section 406, 420, 120B IPC is made out, therefore, FIR No.332 dated 25.07.2022 under Section 406, 420, 120B IPC, P.S. Model Town, Panipat was registered, copies of the FIR were prepared from computer. Copy of the file alongwith original complaint was given to SI Baljit Singh 586/RR for further action at Model Town, Panipat. Remaining copies of FIR through special report through EHC Satish 940 will be sent to Higher Officials and Illaqa Magistrate.xxx

5. Counsel for the petitioner submits that the main allegation are against the brother of the petitioner namely Vijay Sharma and so far as the petitioner is concerned, he with an intent to pacify the complainants tried to intervene. He relies upon order dated 5th of September, 2024 passed in CRM-M No.19403 of 2024 whereby co-accused Parmod Sharma has been granted regular bail. Further reliance is being placed upon order dated 16th of May, 2024 passed in CRM-M No.17112 of 2024 and CRM-M No.47848 of 2023 whereby Savita Devi and Vijay Pal Sharma stand admitted to

regular bail. Counsel further brings to the notice of this Court that despite non-bailable warrants, the complainants still remain illusive and are not appearing before the Trial Court. He thus submits that the custody of the petitioner need not be be prolonged as a punitive measure.

6. Custody certificate has been produced, which is taken on record. As per the same, the petitioner by now has undergone actual custody of more than 1 year, 7 months and 10 days in a magisterial trial and has clean antecedents.

7. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record. However, he submits that the trial is proceeding as material witnesses are being examined. Yet he does not dispute that so far as the complainants are concerned, they are still evading the process.

8. I have heard counsel for the parties and have gone through records of the case.

9. In view of above, without commenting on the merits of the case and keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

10. Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

11. In view of the concession of regular bail granted to the petitioner in the main case, CRM No.30913 of 2024 seeking interim regular bail has been rendered infructuous and dismissed as such.

October 01, 2024 **(Pankaj Jain)**
Dpr **Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No