

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.21800 of 2024
Reserved on: 11.07.2024
Pronounced on: 30.07.2024

Sushil @ Shilu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate and
Mr. Rahul Kesar, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
91	01.04.2024	Cyber Crime, Gurugram	420, 120-B IPC and Section 66-D of Information Technology (Amendment) Act, 2008

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 439 CrPC, 1973, seeking regular bail.
2. In paragraph 6 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts of the case are being taken from reply dated 20.05.2024 and the relevant paragraph(s) of the same reads as follows:
- “2. That the brief facts of the case are that a complaint was made by P/SI Manoj Kumar, PS Cyber Crime East, Gurugram to the effect that on 01.04.2024, the secret informant met and informed him that on the third floor of House No. 495, Koel Vihar, Sector-52, Gurugram, Sunil Kumar Sonu, alongwith his associates, runs a racket of cheating people from India and abroad in the name of getting them to invest online in the name of different companies. He cheats them in the name of giving them very good profits by transferring the amount. P/SI informed the higher officials about the information and reached at the crime spot alongwith his raiding team. On that occasion, the deponent was also present. The said P/SI alongwith his fellow officials went to the above mentioned place, rang the doorbell and opened the gate and after going inside the flat, a video was made from the phone of Head Constable Birendra of the above mentioned flat. When P/SI went inside with fellow officials, he saw that 07 people were sitting on*

the sofa kept in a room in the flat, keeping laptops and many mobile phones on the wooden tables in front and were messaging through Whatsapp and working on the laptop. A person sitting in a different room in the same flat was also apprehended and on investigation he disclosed his name as Sunil Kumar Sonu. The other persons disclosed their names as Pawan, Arshdeep, Tarun, Parasdeep, Deepak, Himanshu, Rajendra. Sunil @ Sonu told that he and his friend Ashir, resident of Fatehabad, together with people sitting in India and abroad, pretending to be employees of different investment companies cheated people in and outside India in the name of giving huge returns in the name of online investment. They cheat people by making them invest online in their accounts. For which they have kept a staff of 7 employees in that building, to whom accused pays a salary of Rs. 20,000/- per month and also gave 2 percent of the total cheated amount as bonus/commission. Accused have been running this call center for last about a year. Till now accused Sunil had earned around Rs. 15 lakhs from this fraud. His friend Ashir had gone to Sri Lanka and from there, alongwith his colleagues, he prepared investment related links, websites etc, for this fraudulent activity. He prepared the customers for investment and after preparing them to invest the money, refers them to his staff, after which he along with his colleagues got them to deposit the money in the bank accounts provided by Ashir. Ashir also opened bank accounts and gave them to accused Sunil and also told him about net banking. Apart from this, only the mobile phones available with accused and his staff have Whatsapp and Ashir run the number and login or log out from there. Accused Sunil kept 40 percent of the total amount defrauded from people and sent the remaining amount online to Ashir's mentioned accounts. For this work of online investment, accused Sunil was asked to present the documents related to it, DOT license and guidelines and Client Agreement etc but accused Sunil did not present any document. The laptops and mobile phones of the above mentioned persons were taken into police possession. Thereupon, the above mentioned FIR No. 91 dated 01.04.2024 u/s 420, 120-B IPC and 66-D of IT Act was registered at P.S. Cyber Crime East, Gurugram."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail and has referred to supplementary affidavit dated 10.07.2024 pointing out to relevant paragraph(s) of the reply which reads as under.

"That the role of the petitioner Sushil @ Shilu in the present case is that he used to go to Delhi, Noida, Ghaziabad (on the instructions of his son i.e. co-accused Ashir @ Mohan) for collecting the documents of the fake accounts and then he used to deliver the same in their office at Plot No. 495, Koel Vihar, Sector-52, Gurugram to the persons present there, through accused Sunil Kumar @ Sonu."

6. The petitioner's role was on the lowest footing as compared to the other accused, and he probably would not have been aware of the reasons for collecting documents. Thus, the petitioner is entitled to bail because of his role. It is clarified that the petitioner's bail order shall not be a ground for bail to any of the other accused on the grounds of parity.

7. As per paragraph 4(iv) of the bail petition, the petitioner has been in custody since 01.04.2024. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.
8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|--|--|
| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
11. This order is subject to the petitioner's complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
13. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

14. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.07.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.