

CRM-M-23191-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23191-2024
Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Salim ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Talim Hussain, Advocate
For the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0001	25.01.2024	Cyber Crime, Charkhi Dadri, District Charkhi Dadri, Haryana	419 & 420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from the reply dated 22.07.2024, which reads as follows:-

“2. That facts in the present matter in succinct are that a case FIR No. 01 dated 25.01.2024 under sections 420, 419 IPC Police Station Cyber Crime, Charkhi Dadri was registered on the written complaint submitted by complainant Bijender son of Mange Ram resident of village Mandola district Charkhi Dadri stating therein that on 18.01.2024 he received a telephonic Whatsapp message from mobile phone No.xxxx7995. The ID of the caller was having photo of his co-villager Manjeet son of Anand. Complainant presuming the caller to be said Manjeet sent Rs.9,000/- +Rs.15,000/-+Rs.25,000/- through phone-pay account to the mobile phone number given in the Whatsapp message, which was xxxx5703. Complainant then given a further sum of Rs.15,000/- from mobile phone number of his son Himanshu to said mobile phone No.xxxx5703. When complainant visited the house of Manjeet he came to know that some fraudsters has cheated him for Rs.64,000/- by committing impersonation. Upon this instant case FIR was registered and investigation commenced.”

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4. The petitioner's counsel argued that it is imperative to mention here that date of occurrence is 18.01.2024 and FIR has been registered on 25.01.2024 and there is inordinate delay of 7 days in the registration of FIR and no explanation has been given qua this effect. He further submitted that name of the present petitioner is not mentioned in the FIR and name of petitioner nominated in the present case on the basis of disclosure statement of co-accused Jitender son of Sunder, resident of village Manapur Bas, District Bharatpur, Rajasthan who is already on bail.

5. 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.

6. The State counsel while opposing the bail, referred to paras 3 to 5 of the reply, which read as follows:

“3. That during the course of investigation conducted by HC Shiv Kumar PS Cyber Crime, Charkhi Dadri location of mobile No. xxxx7995 was found at village Mainapuri police station Sikari district Bharatpur (Raj) where accused Jitender son of Sundar resident of village Mainapuri was found present and from his possession two mobile phone were recovered. One of the mobile phone was having Sim No. xxxx7995, which was used in crime by sending fraud whatsapp messages to the complainant. Both the mobile phones were taken in police possession.

4. That during investigation accused Jitender was arrested in the case on 25.01.2024 and during interrogation, accused confessed his crime stating that he had committed the crime in connivance with Salim son of Nuruddin resident of Idgah Bass district Dingh (Raj) (Present petitioner). From confessional statement of the accused Jitender cheated amount of Rs. 10,000/- were recovered. True translated copy of confessional statement of co-accused Jitender is annexed herewith as Annexure R-1.

5. That during investigation, screen shots of bank account transactions through UPI and bank account statement were produced by the complainant and the same were taken in police possession. Details of beneficiary bank accounts in which the cheated amount of Rs. 64000/- in different transactions was transferred from the account of complainant was obtained. However, the residence given in the account was found fake. Efforts are being made to collect the whatsapp data/details and mobile phones number details and the same is under process. The mobile phones recovered from co-accused Jitender has been sent to Cyber Forensic Lab, Panchkula for examination on 29.02.2024 and the result is awaited. The laboratory authorities have been approached in person and it has been assured that the result will be provided in due course.”

7. The petitioner took advantage of the massive loopholes, breaches, and vulnerabilities in providing SIM cards and opening bank accounts without proper verification.

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8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
9. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
10. **Petition dismissed.** Interim order dated 09.05.2024, is recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.