IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.36098 of 2024
Date of Decision: 17.09.2024

Vivek ... Petitioner

Versus

State of Punjab ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Manish Verma, Advocate, for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab, for the respondent-State.

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MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking regular bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
178	12.12.2023	Focal Point, District Police Commissionerate Ludhiana	419 and 420 of IPC (467, 468 and 471 of IPC added later on)

2. As per the prosecution case, the aforementioned FIR was registered on the basis of a written complaint filed by complainant Kamaljeet Bhatia, authorized representative of KMRA Associates alleging therein that his company had entered into an agreement with one M/s ECR Build Tech Private Limited, Delhi for construction on its site at Assam. Steel material was required to be supplied by his company to the

abovesaid M/s ECR Company. He alleged that one Gaurav Sharma, claiming himself to be Business Development Manager of Tata Steel company had approached Kishore Rout, an employee of his company and had shared quotation for supplying steel material. A deal was struck for purchase of steel material through the abovesaid Gaurav Sharma after making negotiations and fixing rates. The above named Gaurav Sharma generated a tax invoice bearing Sr. No.234694KF48 on 11.12.2023 and made a request to disburse 25% of the amount of the material to be purchased by company of the complainant in the bank account, the details of which were mentioned in the tax invoice. Believing the contents of the quotation and tax invoice which was generated by Gaurav Sharma to be genuine, the company of the complainant deposited an amount of Rs.20,98,681/- in the said bank account. A letter was also written to the banker and the said amount was transferred in the account on the same day. However, on the next very date, the complainant came to know that the bank account which was mentioned in the tax invoice infact stood in the name of one Vishvjeet and not in the name of any company. The inquiry further revealed that the amount of money deposited by the company of the complainant in the said account had been transferred to different bank accounts and was then withdrawn, thereby cheating the company of the complainant. Since wrongful loss to the tune of amount of Rs.20,98,681/- was caused to the company of the complainant by way of cheating, therefore, prayer had been made for taking action. Accordingly, the FIR was registered and investigation proceedings were initiated.

3. As per the further allegations, during the course of investigation, it was revealed that the amount of Rs.20,98,681/- after being deposited was transferred in the bank account of co-accused Parina, Sadhna Dutt and Soni in connivance with one Chhotu Kumar. Parina and Soni were apprehended. On interrogation, they disclosed that co-accused Gaurav Sharma and Vishvjeet had got prepared their Aadhar Cards on some fake addresses and got opened bank accounts by showing those wrong/fake addresses and after transfer of money in their bank accounts, the same was given by accused Parina etc. to the accused Gaurav Sharma and some commission had been received by them. They also disclosed that Aadhar Cards by furnishing fake addresses were prepared and the bank accounts were opened by them with the help of the present petitioner and the co-accused Vikas who were running business under the name of G.Tech Computer Center at Village Dundahera, Gurugram and were indulged in preparing fake Aadhar Cards and opening bank accounts on the basis of those Aadhar Cards.

4. As per the further allegations, the petitioner and his brother Vikas were apprehended on the basis of disclosure statement of co-accused Parina and they were also interrogated. The petitioner admitted that he was in touch with the co-accused Vishvjeet and Gaurav Sharma and had hatched a conspiracy with them to prepare fake documents online and to use them for preparing Aadhar Cards by using wrong addresses and that he also used to open bank accounts on the basis of those Aadhar Cards containing fake addresses. He also admitted that by using wrong information, Aadhar Cards

had been prepared by them in the name of accused Parina and Sadhna Dutt etc. and then bank accounts were also got opened by using such documents of identity and in those accounts, money was got transferred by accused Vishvjeet and Gaurav Sharma which was distributed amongst themselves under a well planned conspiracy hatched by them. Investigation has since been completed and challan has been presented before the learned trial Court. The petitioner had filed an application for grant of regular bail before the Court of learned Additional Sessions Judge, Ludhiana which was dismissed vide order dated 14.02.2024.

5. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 07.01.2024. He has been nominated as an accused on the basis of disclosure statement of co-accused Parina etc. which cannot be considered to be admissible in evidence. No evidence has been collected against him during the course of investigation to prove that the fake Aadhar Cards had been prepared by him. It is submitted that the petitioner had successfully passed EA Supervisor Exam held on 14.07.2021 by authorized testing and certification agency of UIDAI (Unique Identification Authority of India, Government of India) which was a nodal agency for issuance of Aadhar Cards in India. A unique registration number had been allotted to him. A shoddy investigation has been conducted as this fact has no where been mentioned in the challan report. No money had been transferred in the bank account of the petitioner. He is not beneficiary of the alleged crime proceeds. He is neither directly nor indirectly connected with distribution of the money trail in question. On

the basis of the investigation conducted by the investigating agency, it has no where come on record that he had prepared any fake Aadhar Card and bank accounts in the name of co-accused were got opened by him on the basis of those fake Aadhar Cards. He is in custody since 07.01.2024. The co-accused Vikas who is his brother has been extended benefit of bail. On the ground of parity, he too deserves to be released on bail. The trial is likely to take time. His further detention would not serve any useful purpose. He does not have any criminal antecedents. Therefore, it is urged that he deserves to be released on bail.

6. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that there are specific and serious allegations against the petitioner as he by hatching a conspiracy with the co-accused, had prepared fake Aadhar Cards in connivance with co-accused Parina, Sadhna Dutt, Soni, Chhotu Kumar, Gaurav Sharma and Vishvjeet and had opened bank accounts on the basis of those fake Aadhar Cards in the names of co-accused Parina, Sadhna Dutt and Soni. The money extracted from the company of the complainant by way of fraud and cheating, had been transferred in the bank account of co-accused Vishvjeet and then in the accounts of above named Parina, Sadhna Dutt and Soni and was withdrawn by the co-accused. Wrongful loss to the tune of Rs.20,98,681/- had been caused to the company of the complainant due to the conspiracy being hatched by the petitioner with the co-accused to deprive the company of the same. The allegations against the petitioner are serious in nature. There are chances of his absconding or intimidating the

witnesses if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

7. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

8. The petitioner in connivance with the co-accused Gaurav Sharma and Vishvjeet (who are yet to be arrested) as well as co-accused Parina etc. is alleged to have prepared Aadhar Cards in his G.Tech Computer Center by updating false information and by mentioning false addresses and also got opened online bank accounts in the name of co-accused Parina etc. by showing their wrong addresses. The amount of money which is alleged to have been got transferred by the co-accused Gaurav Sharma initially in the bank account of co-accused Vishvjeet and then in different bank accounts of other co-accused Parina etc. was withdrawn by the co-accused Gaurav Sharma and Vishvjeet subsequently. Due to the act and conduct of the accused, the complainant is alleged to have suffered wrongful loss to the tune of the abovementioned amount. However, the investigation has since been completed. The trial is likely to take time. The subject offence is triable by Magistrate. There is no basis for the contention that the petitioner may abscond. He has a permanent abode. It is well settled that bail is the rule and jail is an exception. As per the above discussed facts and circumstances, I am of the considered opinion that the petition deserves to be allowed. The same is accordingly allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

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9. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANISHA BATRA)
JUDGE

17.09.2024
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No