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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-41033-2024

Date of Decision: November 19, 2024

Parkash Mulchandbhai Prajapati

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Ms.Shabana Munawar, Advocate with
Mr.Jagmohan Ghumman, Advocate
for the petitioner.

Mr.R.K.Ambavata, AAG, Haryana
alongwith ASI Anil.

.....

RAJESH BHARDWAJ, J.(ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.87, dated 18.05.2023, under Sections 419 and 420 IPC (Sections 467, 468, 471, 120-B IPC and Section 66D of Information Technology Act, 2000 added later on), registered at Police Station Cyber Crime, Gurugram, District Gurugram.
2. Succinctly facts of the case are that complainant/Akshay Yadav s/o Shri Rajkumar, lodged the complaint with the police wherein he alleged that on 27.02.2023, he talked to a girl, namely, Akansha-M on telegram regarding job. On her asking he met with one Raveena Kaur and CS Tripadvisor RPI on telegram. They sent him a link asking him to register at the same. On his registration an amount of Rs.1200/- was credited in his



account. Thereafter, he was given a task of rating and on the basis of rating, money was credited in his account. Thus, they were successful in winning his trust. Thereafter he made various transactions on their asking. Money was taken from him on the pretext of offering new jobs and getting the money double in return of task in various accounts mentioned by them. However, he found himself cheated with an amount of Rs.6999513/- by the help of Telegram. Request was made to take legal action against the culprits.

3. On his complaint, FIR was registered and the investigation commenced. During investigation, complicity of the petitioner surfaced in the offence committed, however, as he was already lodged in the jail, so his custody was taken on production on 19.02.2024. He approached the Court of learned Additional Sessions Judge, Gurugram, praying for grant of regular bail, however, after hearing both the sides and finding no merit in the same, the prayer of the petitioner was declined by him, vide his order dated 07.08.2024. Aggrieved by the order dated 07.08.2024, the petitioner is before this Court by way of filing present petition.

4. Learned counsel for the petitioner vehemently contended that the petitioner has been falsely and frivolously implicated in this case. She submits that neither the petitioner is named in the FIR nor there is any allegation against him. She has submitted that the petitioner has been involved in the present case on the basis of disclosure statement of the co-accused Solanki Yogesh Jalamsinh. She has further submitted that no money is to be recovered from the petitioner. It is submitted that petitioner



Magistrate. She submits that there being no evidence against the petitioner, his incarceration is totally not warranted. She submits that investigation is already complete and thus in the facts and circumstances of the case, the petitioner deserves to be granted bail.

5. Per contra, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner. Status report, dated 18.10.2024, by way of an affidavit of Priyanshu Dewan, HPS Assistant Commissioner of Police, Cyber, Gurugram, has also been filed by learned State counsel. He has vehemently contended that complicity of the petitioner has been duly established during investigation. He has submitted that the complainant was trapped by all the accused in a well hatched conspiracy wherein he was duped with an amount of Rs.6999513/- He has submitted that during investigation, Investigating Agency collected evidence by sending notice under Section 91 Cr.P.C. to Telegram Messenger App Company, Whats App Messenger App Company and Amazon Internet Service Provider. Thus, the record had been obtained from said service providers alongwith the Certificate under Section 65-B of the Evidence Act. The Bank statements and other documents, i.e. account opening forms etc. of the beneficiary accounts were obtained from the concerned banks. He has submitted that from the technical analysis it came forth that Mobile No.7434929497 linked with account No.65063300001582 and Mobile No.8758416949 linked with account No.34405006469 were found to be installed and another mobile No.9313399145 was found to have been working through the said mobile hand set and the same was found to have



Yogesh by affixing his photograph in Adhaar card of the said person Solanki Yogesh. He has submitted that the petitioner Parkash Mulchandbhai Prajapati and co-accused Kumar Prajapati were already confined in another FIR No.598 of 2023 under Sections 66-D, 66-D IT Act and 419, 420 IPC, Police Station Cyber Crime, Hyderabad, Telangana. He has submitted that during investigation, disclosure statement of the petitioner was recorded. It is submitted that during investigation it has been found that the petitioner has got activated the accounts No.34405006469, 54405013320 (ICICI Bank) and accounts No.16463400003301, 16463400003946, 4563300003039, 21363400006704, 42263300006224, 21363300007058, 45163300005698, 65063300001582, 98663400001759 (Yes Bank) which were opened by accused Alpesh and Himanshu. Petitioner had provided the access of said accounts to accused Sailesh Desai, Anas Motiyani, Aarif and Khan Bhai. In lieu of the same, petitioner used to get Rs.1.00 lakh per month for the same from co-accused Sailesh Desai. He has further submitted that six of the accused are yet to be arrested. It is further submitted that though investigation is complete, challan is presented and charges are framed, however, out of 17 prosecution witnesses, none has been examined till date. He has submitted that as per the custody certificate, the petitioner is involved in various other cases of similar nature and thus he being a proclaimed offender does not deserve the concession of bail as the same would prejudice the trial.

6. Heard.

7. On hearing the learned counsel for the parties and perusing the

record, it is deciphered that FIR in this case has been lodged on the



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statement of the complainant/Akshay Yadav. The complainant is alleged to have been cheated with an amount of Rs.6999513/-. During investigation, name of the petitioner surfaced and he was arrested in this case on 19.02.2024 after taking him on production warrants. His disclosure statement has been recorded and the investigation conducted. It has been found that the petitioner had opened various accounts, as already mentioned above and for activating these accounts, he used to be paid Rs.1.00 lakh per month by co-accused Sailesh Desai. Custody certificate, dated 27.08.2024, produced by learned State counsel would show that the petitioner is involved in seven other cases of similar nature. Thus, the petitioner is a habitual offender. Trial is at its initial stage. Hence, this Court is of the opinion that in the facts and circumstances of the case, petitioner does not qualify for grant of bail at this stage as the same would likely to cause prejudice to the trial.

8. Dismissed.

9. However nothing stated herein shall be treated as an expression of opinion on the merits of the case.

November 19, 2024

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No