IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-34488-2024 in/and
CRM-M No.42304 of 2024
Date of Decision: 04.09.2024

Dinesh Bijarniya ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bharat Bhushan Choudhary, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

Mr. Gurjinder Singh Thind, Advocate,
for the complainant.

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MANISHA BATRA, J. (Oral)

CRM-34488-2024

The application is allowed, as prayed for.

Main Case

1. The instant petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) for grant of regular bail in case arising out of FIR No.57 dated 17.07.2024 registered under Sections 318 (4), 336 (3), 338, 340 and 61 of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”) at Police Station Cyber Crime, District Panchkula, on the basis of a written complaint lodged by the complainant Davasis Chaudhary who was a retired Army

Officer, alleging therein that on 20.06.2024, he received a call from cell phone No.9669778752 on his mobile phone No.9847928026. The caller told him that he was from the bank of the complainant and some information had been received qua his credit card. The caller then told him to make complaint in this regard and connected his call at the police station. Then the complainant was asked to make contact at mobile No.-6366698960. He sent a Whatsapp message to him. Then he received a video call and the caller while introducing him as a police officer from Police Station Bandra (Mumbai) told him that his son had been arrested in a money laundering case and thereafter he sent on his Whatsapp, a letter shown to be issued by Directorate of Enforcement which was carrying his photograph and was bearing stamp of Supreme Court. The complainant and his wife were extended threats to not to tell about the facts disclosed by him to anybody till the investigation was completed and otherwise he would be arrested. Thereafter, he was made to talk with some female officer on 24.06.2024 who threatened that his case would be transferred to CBI. The complainant was also made to call with some other person who introduced himself as a CBI officer. He sent a link to the complainant and told him to click that link. The complainant then received a letter on that link whereby he was asked to deposit an amount of Rs.10 lakhs within two days. The complainant was made to send through RTGS an amount of Rs.10 lakhs to the bank account, details of which were sent by the callers on his Whatsapp. They continued calling him. Subsequently, he came to know that he had been duped of his money and, therefore, he prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated.

2. During investigation, it was revealed that the aforementioned amount of money was transferred in the bank account of co-accused Sanjay Kumar Maurya. He was arrested on 20.07.2024. On interrogation, he suffered a disclosure statement to the effect that the accused Hemant Kumar Verma had induced him to open an account in his name in IDFC Bank and to give let him operate the same in lieu of a sum of Rs.50,000/- and on his asking, he had opened his account and had given ATM, cheque book and his registered Sim Card to the accused Mool Chand. On the basis of his disclosure statement, the co-accused Sonu Kumar Vaishnav, Mool Chand, Hemant Verma and Vishu Chaudhary were also arrested. The trail of this conspiracy was then traced to the present petitioner Dinesh Bijarniya who was arrested on 25.07.2024, who too suffered a disclosure statement to the effect that he had come into contact with some foreigner named as Kaisan through "telegram" application. The said person used to get money from the indians by defrauding them and for that purpose, he had hired several persons in various cities, who used to get current bank accounts opened in the names of different persons and send details thereof to the abovesaid Kaisan. Kaisan used to give details of such bank account holders and their mobile numbers to the petitioner and the latter used to contact such persons and after receiving their cheque books, ATM cards, registered mobile sim card, used to send the same to Kaisan. He further disclosed that he had even engaged his assistant Mool Chand in this business.

3. As per the further disclosure made by the petitioner, on

03.07.2024, the above named Kaisan had made a Whatsapp call to him intimating about hiring the co-accused Sanjay Kumar Maurya, a bank account holder and thereafter, he had directed co-accused Mool Chand to receive the cheque book, ATM Card and sim card etc. from Sanjay Kumar Maurya and send the details of the same to Kaisan who with the help of an App downloaded in the phone of the petitioner, received money from the bank accounts of different account holders. It was also revealed that the accused Hemant Verma, Sonu Kumar Vaishnav, Vishnu Chaudhary and Sanjay Kumar Maurya on account of greed of money had given their respective bank accounts to the petitioner and co-accused Mool Chand on asking of some person named as Chong and hailing from China. Investigation is still going on.

4. The petitioner had filed an application for grant of regular bail which was dismissed by the Court of learned Additional Sessions Judge, Panchkula vide order dated 17.08.2024.

5. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 25.07.2024. His custodial interrogation is no more required. No useful purpose would be served by keeping him in custody. No incriminating material has been recovered from him. The ingredients for commission of subject offences have not been made out against him. There is nothing on record to show that it was he who had deceived the complainant or had procured any document from him. No transaction of money was done by the complainant in the bank account of the petitioner which meant that he was not the beneficiary. He

has a permanent abode. He does not have any criminal antecedents. The investigation and trial will take time. The complainant has sworn an affidavit in his favour on 07.08.2024 that he has no objection if the petitioner is extended benefit of bail as a compromise has been arrived at between them. Therefore, it is urged that the petition deserves to be allowed.

6. Power of Attorney on behalf of complainant has been filed and learned counsel has stated that the complainant has no serious objection if the petition is allowed. On asking, it has been disclosed by him that the money belonging to the complainant has been returned to him.

7. Per contra, learned State counsel has argued that there are serious allegations against the petitioner. He is the kingpin of a larger conspiracy hatched with the co-accused in order to deprive the innocent public persons of huge amount of money. The investigation is still going on. There are chances of petitioner’s absconding or even intimidating the witnesses if extended benefit of bail. Such like crimes are on rise. The petitioner may commit similar offences if released on bail. Some co-accused are yet to be arrested. Therefore, it is urged that the petition does not deserves to be allowed.

8. I have heard learned counsel for the parties at considerable length and have gone through the record.

9. The petitioner is alleged to have hatched a conspiracy with the co-accused in pursuance of which the complainant was extended threats by the co-accused, was coerced to part with a huge amount of money and wrongful loss by way of deceit was caused to him. He in connivance with

the co-accused is also alleged to have prepared forged documents and used the same. Annexure P-3 is a copy of affidavit shown to be sworn by the complainant in favour of the petitioner. However, the authenticity of this affidavit and its bearing on the case has to be looked into at the time of the trial and not at this stage. The no objection on the part of the complainant to extend benefit of bail to the petitioner can also not be considered in view of the grave nature of the allegations as levelled against the petitioner who apparently appears to be a part of a much larger organized crime syndicate of international level engaged in extracting money from innocent persons by extending threats, and by defrauding and cheating them. The investigation is still going on. Some co-accused are yet to be arrested. The apprehension that the petitioner may abscond cannot be stated to be unfounded at this stage. Accordingly, no reasonable ground for extending benefit of bail has been made out in favour of the petitioner. Resultantly, the petition is dismissed.

(MANISHA BATRA)
JUDGE

04.09.2024
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No