



CRM-M-42892-2024

1

208/2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42892-2024

Date of Decision: 29.11.2024

Hamja

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Nafeesh Ahmed, Advocate
for the petitioner

Mr. Gaurav Bansal, DAG Haryana

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C has been invoked for grant of regular bail to the petitioner in case FIR No.50 dated 02.04.2024 registered under Sections 420, 467, 468, 471, 34 IPC at Police Station Cyber Crime Nuh, District Nuh.

2. The contents of the above-mentioned FIR are reproduced herein below:-

"To, Mr. SHO Police Station Cyber Crime Nuh, Today I HC. C Sahil No. 3/245 HAP, C. NAVEEN NO. 3/392 HAP CIA STAFF TAURU in official vehicle Govt. No. HR-30-GV-9305 Driver CT Neeraj No. 403/Nuh (with laptop and portable printer) was present under Dhulawat bridge KMP for prevention of cyber crime crimes that the secret informer together informed that Hamza s/o Sher Mohd, resident of Ghasenga Police Station Sadar Nuh, Sakir son Manjur resident of Utawang Ka Nangla police station Kausi district Mathura UP at present Chahalka police station Sadar Tauru by using fraud



mobile, fake SIMs and fake numbers phone pe or google pay accounts contact the common man by becoming their acquaintance and cheating the public by cheating the general public or other cyber crimes. Those who are standing on Chahalka Maung today waiting for someone with fake mobile phones or fake SIMs. If the raid is conducted immediately, the fraudsters used in the crime can be caught red-handed including fake SIMs in mobile phones. The I HC considered the information to be true and informed the fellow employee about the information and asked the people coming to join the raiding party, but all of them did not reveal their names and expressed their compulsion and left. When I reached Chahalka Maung with secret informer, he pointing to two boys standing in front of him, told him that Hamza or Sakir was above. After getting freed the informer, I HC nabbed the above boys with the help of official companions on the signal of secret informer, on asking the name and address, one of them gave his name as Sakir son of Manjur resident of Nangla police station of Utawan, Kausi district Mathura, UP. at present, Chahalka police station, Sadar Tauru and the other told his name Hamza son Sher Mau, resident of Ghasenga police station Sadar Nuh. On searching Sakir above, 3 mobile phones were recovered from the right pocket of the jeans. On checking in turn, a mobile phone Marka Vivo IMEI No. 864653059797754/47 was found blue, in which two SIMs were found 9101752775 or 8708950394. ON CHECKING, WE GOT LOGIN FROM WHATSAPP BUSINESS ACCOUNT 9101752775 WHOSE PROFILE NAME RAJESH YADAV OFFICIAL OR DP WAS FOUND WITH A PHOTO OF TWO SALESMEN WITH GENERATOR BATTERIES On checking, a very suspicious chat was found. On checking WhatsApp, the login was found from the mobile number 8708950394, which is very suspicious. There are very suspicious photos found in the gallery. Which is the login from 8708950394@UPI on Bhim. GOT LOGIN FROM ar1155105@freecharge ON FREECHARGE. Login from 8708950394@ikwik on Mobikwik. When asked about the transaction of the above banking app, no answer was given. The second phone



Marka Vivo Barang white cream whose IMEI number 869916065812098/80 was found, on checking which two SIM mobile numbers 9034805420 or 7988169670 were found. On checking, I got login from WhatsApp business account mobile number 7988169670 which profile name Vivek Golden which DP has a photo of a lawyer on it. Which is quite suspicious chat. On checking WhatsApp, I got login from mobile number 9034805420. The profile name Abdullah Pathan official got about All India courier services. Which is quite suspicious chat. On checking the gallery, a lot of QR codes or photos of medicines have been found. The login was received from Instagram id wagov31306ikuromi.com6 or Facebook from Rajesh Yadav, global generator, vivek golden, globall or global generators. Gmail ID js6909235@gmail.com or yadavrajesh39382@gmail.com login. Login is received from mobile number 7988169670 on Paytm Business App. Login. received from MobiKwik 7988169670@ikwik Login received from free recharge amc672727@freecharge Login received from 7988169670@paytm on Paytm app Login. received from 7988169670@upi on Bhim Pay The third phone was found in the market iPhone 15 Barang White with IMEI No. 353792279510932 or 353792279243971. On checking which one The SIM mobile number was found 9997638227, which on checking got the login from 9997638227@omni on the omni card app. On searching the second accused Hamza, two mobile phones were recovered from the left pocket of the pants of jeans which on checking found a mobile phone Marka Vivo Barang Light Pink whose IMEI No. 866164067405099/81 was found in which two SIM mobile numbers were found 7800572872 or 6305846518. On checking, the login was found from the WhatsApp account mobile number 7800572872, whose profile name was Lalit Kumar 9739299, which is suspicious chat. On checking the gallery. QR code or transaction photos were found. Login received from 6305846518 on Google Friend search for whatsapp app found or text messages of fake credit were sent in. On checking the second phone, the mark was found to be of Realme Barang Blue. The IMEI number 86188063172130/22 which



was found on checking a SIM mobile number 8930086707 was found. Got the app of friend search for whatsapp. ON CHECKING WITH THE HELP OF CYBER CELL, THE HOLDER OF MOBILE NUMBER 9101752775 MUKACHIDUL ISLAM S/O ABUL KASEM R/O DAPARA NAGAON ASSAM OR THE HOLDER OF MOBILE NUMBER 9034805420 MANISH KUMAR S/O RAJENDER R/O BHULWANA KABUTRA MOHALLA HARYANA OR THE HOLDER OF MOBILE NUMBER 7800572872 RAMHIT S/O NATTHU PRASAD R/O KARAUNDI KALAN CHITRAKOOT MAU UTTAR PRADESH. The said SIM was found to be fake. When asked about the fake SIMs or screenshots or payment history of the recovered mobile phone. Hamza and Sakir could not give any satisfactory answer above. Joe Hamza and Sakir put the SIMs of the said mobile phones separately in 2 parcels envelopes and the Parcel envelope was sealed with the seal 01-01 of SI and the parcel envelope mobile phone was taken into possession by seizure memo as evidence. Seizure memo was prepared separately. Seizure memo was signed by the accused and the witnesses. Seal after use was handed over to C. Sahil No. 3/245 HAP. The photographs of the technical evidence of the above recovered fraud mobile phone taken by his personal mobile were printed out from a portable printer and captured by Caesar Mimm as evidence. Seizure memo was signed by the accused and the witnesses. The accused Hamza son of Sher Mohd resident of Ghasenga police station Sadar Nuh, Sakir son of Manjur resident of Utawang Ka Nangla police station Kausi district Mathura UP at present Chahalka police station Sadar Tauru by hiding his real identity online by contacting the common man by contacting them by using fake SIMs, fake mobile phones and fake bank accounts, by becoming their acquaintance, by using fake SIMO, fake transaction text messages by sending fake SIM messages to the general public by text message by sending fake PhonePe Google By cheating the public by putting money in pay or other accounts, the crime has been committed under sections 420, 467, 468, 471. 34 IPC, on which the police are being sent to the police station Sahil No. 3/245 HAP to register an FIR by



writing an article. The charge should be marked and informed by the case number and the case should be sent to another investigator on the spot for further investigation. I am on a busy occasion researching the prosecution of the HC and the accused in the case. Today- CHAHALKA MAUNG SD- KUTUBDIN HC KUTBUDIN NO 675/PALWAL CIA STAFF TAUNGU DATE-02.04.2024 AT 03.30 PM”

3. Learned counsels for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case and challan has been presented. He further submits that no complaint has been filed by the persons whose sims were recovered from possession of the petitioner, which show that the possession was without any malafide intention. He further submits that the petitioner has undergone actual custody of 07 months and 26 days and there is no other case pending against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 07 months and 26 days and there is no other case pending against him. He further on instructions submits that the charges were framed on 01.10.2024 and out of 08 prosecution witnesses, only one prosecution witness has been examined till date. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the petitioner has undergone actual custody of 07 months and 26 days and there is no other case



witness has been examined till date. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in ***"Dataram Singh vs. State of Uttar Pradesh and another"*, (2018) 3 SCC 22.**

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in ***"Abdul Rehman Antulay and others v. R.S. Nayak and another"*, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which they are accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the



CRM-M-42892-2024

facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.
10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

29.11.2024
reena

(KIRTI SINGH)
JUDGE

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