IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47155-2023 (O & M)
Date of decision: 22.02.2024

Naveen Kumar Gautam

…... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Rajvinder Kaur Sohal, Advocate, for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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JASJIT SINGH BEDI, J. (Oral)

The prayer in this petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.582 dated 27.11.2021 under Sections 406, 420 and 120-B IPC registered at Police Station Sadar Thanesar, District Kurukshetra.

2. The present FIR came to be registered at the instance of Balkar Singh son of Hazara Singh and reads as under:-

"An application bearing No. 4390-MISC dated 29.09.2021 after inquiry by Incharge Special Detective Unit, Police Line, Kurukshetra through post has been received from the office Superintendent of Police, Kurukshetra at of the Police Station, which is like this:- "To, The Superintendent of Police, Kurukshetra. Subject: Application regarding taking legal action against the accused persons namely (1) Bharat Bhushan,

Mobile No. 978662308, 9311089951, (2) Renuka, Mobile No. 7042151950, (3) Kadam, Mobile No. 7042011629, (4) Prabhakar Chaudhary, Mobile No. 7579671932; (5) Raghuvanshi, Mobile No. 9311096224, 9311312461 in respect of committing cheating of Rs. 90,00,000/- (Ninety Lakhs) with the applicant, regarding tracing the location of the accused persons from the mobile numbers of the accused persons, regarding arresting the accused persons upon registration of case as well as regarding getting delivered justice. Sir, The applicant requests under: (1) That the applicant is the resident of Village Rattan Dera, Tehsil Thanesar, District Kurukshetra, who is a peace loving and law abiding person. (2) That the applicant had got conducted insurance policy of Max Life Insurance. The amount of this policy had since been received to the applicant. That just after some days upon maturity of this insurance policy of the applicant, the accused No. 1 Bharat Bhushan made a call on the mobile No. 9813267586 of the applicant and he told the applicant and disclosed him as officer of IGMS Policy Department and said to the applicant that a sum of Rs. 322000/- of your Max Life Insurance Policy are balance and said that after getting deposited this balance amount in our account, you would get a sum of Rs. 622000/-. (3) That the applicant while placing reliance on the above mentioned accused, the applicant got transferred a sum of Rs. 322000/- through RTGS from his bank account No. 9140100152551809 of Axis Bank, Branch Beed, Pippli and account No. 93401000566 of ICICI Bank, Branch Pippli in the account No. 4401155000061082 of accused No.. 6 Naveen Kumar Gautam and thereafter the accused No. 1 said that now a pension of Rs. 15000/- will be given to you by RBI, after which the pension of Rs. 15000/- started being received in the account of the applicant and thereafter, the accused No. 1 by *making phone call said to the applicant that still amount. would have you The to transfer SOMO accused No. 1 has since more got transferred a total sum of Rs. 63,00,000/- in the accused of Naveen Kumar Gautam through RTGS on different dates, the copy of statement of which is enclosed herewith. (4) That thereafter the accused No. 1 to 5 were making phone call to the applicant and say that the manager of our company has been transferred and the tax has also been increased. Still you would have to transfer a sum of Rs. 18 lakhs more through RTGS. (5) That the accused No. 2 by making phone call before the applicant told that the health of our manager is not well and got transferred 1265000/- in the Fin a sum of Rs. care account No. 18100009307008 of Kritika Narula dates through RTGS. (6) on different That thereafter the accused persons said to the applicant that by giving reference of FD of Rs. 720000/- after taking OTP from the phone of the applicant, the applicant got online transferred a sum of Rs.720000/- in the account of Neeraj Kumar. applicant after falling into the confidence of the accused persons, according to their version, kept on transferring the amount from his account in the accounts of the accused persons. (7) That the accused No. 1 got transferred a payment of Rs. 720000/- through RTGS from the account of the applicant in the accused of Shalini Kumar and thereafter a payment of Rs. 270000/- has been got transferred through TGS in the HDFC Bank account of Jairam. (8) That pension of Rs. 15000/- has been given by the accused persons to the applicant through Paytm. There is no mention of pension of any kind in the account of the applicant and the accused persons had said to the applicant that in this policy, the insurance of Rs. 5 lakhs each of you husband wife will be covered. (9) That the accused persons had given assurance to the applicant that we shall transfer your entire amount soon in your account, but* *false assurance were kept were given by the accused persons to the applicant that still there is corona period and there is no fund with RBI, you may still wait, after which the pension of Rs. 15000/- continued to the applicant was stopped by the accused persons. Now the applicant became suspicious that the above mentioned accused persons by falling the applicant in their trap by hatching a tragedy/conspiracy have committed cheating of approximately sum of Rs. 9000000/- with him. There is involvement of International gang in this entire matter, who are persons to too much clever nature. The accused persons have since switched off their mobiles, due to which the applicant is mentally harassed. Therefore, you are hereby requested that while keeping in view the above mentioned facts, by tracing the mobile numbers of the above mentioned accused persons, the location of the accused persons may be inquired and the case regarding commission of cheating of Rs. 9000000/- (Rs. Ninety Lakhs) with the applicant may kindly be registered against the accused persons and a sum of Rs. 90 lakhs of the applicant may be got returned from the accused persons. Justice may kindly be delivered to the applicant. Your act will be highly grateful. Thanking you. Applicant Sd/- Balkar Singh son of Shri Hazara Singh".*

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. No specific allegations had been levelled against him and all transactions were conducted through bank accounts executed via RTGS. Not a single transaction had been conducted in the account of the petitioner. In fact, he had been implicated as he was in acquaintance with the other accused. As the petitioner was in custody since 15.02.2023, none of the 27 prosecution

witnesses had been examined so far and the case was triable by the Court of a Magistrate, he was entitled to the concession of bail, moreso, when in one other case arising out FIR No.381 dated 21.07.2022 under Sections 120-B, 420 and 406 IPC, Police Station Ambala City, he had been granted the concession of bail by the Court of Additional Sessions Judge, Ambala.

4. The learned counsel for the State, on the other hand, has filed a reply dated 17.02.2024, which is taken on record. While referring to the said reply, he contends that the petitioner and his co-accused had committed a fraud with the complainant of an amount of more than Rs. 95 lacs and an amount of more than Rs. 65 lacs was transferred in the account of the petitioner. A sum of Rs.36 lacs was transferred in the bank account of a co-accused, namely, Neeraj Kumar. Pursuant to the arrest of the petitioner, he had got recovered a sum of Rs.1,63,000/-. He had criminal antecedents as he was an accused in another FIR. Therefore, the natures of the allegations against him did not entitle him to the grant of bail. He, however, concedes that the petitioner was in custody since 15.02.2023, none of the 27 prosecution witnesses had been examined so far and that the case was triable by the Court of a Magistrate.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by*

Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant."

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated during the course of the Trial. Admittedly, the petitioner is in custody since 15.02.2023 and none of the 27 prosecution witnesses have been examined so far. Therefore, the Trial in the present case is not likely to be concluded anytime soon. Further, in the one other case registered against him, he has been granted the concession of bail. Even otherwise, the present case is triable by the Court of a Magistrate and no serious apprehension has been expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Naveen Kumar Gautam is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other case/crime other than the case(s) referred to in this order.

10. In addition, the petitioner (or anybody on his behalf) shall prepare an FDR in the sum of Rs.3,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The present petition stands disposed of.

February 22, 2024 **(JASJIT SINGH BEDI)**
sukhpreet **JUDGE**

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