IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.45330 of 2024
Reserved on: 04.11.2024
Pronounced on: 07.11.2024

Saif Khan **...Petitioner**

Versus

State of Haryana **…Respondent**

CORAM: **HON'BLE MR. JUSTICE ANOOP CHITKARA**

Present: Mr. Jatin, Advocate for
Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
04	05.08.2022	Cyber Crime, Ballabgarh, Faridabad, District Faridabad	419, 420, 120-B, 201 IPC and 66C, 66D of IT Act, 2000 and 14-A, 31 of Foreigners Act, 1946 added later on

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 11 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> **"**3. *That the brief facts of the present case are that complainant Ravinder Jadhav stated that on 06 March 2022, I met one USA investor online Dr. Hardik Bhat. He gave me information that he is settled in USA and coming to New Delhi, India for investment. He asked me for my WhatsApp number as he wants suggestion from me on investment. I shared my WhatsApp number 8412821383. Approx 10-15 days ago we started chatting. Then we started chatting on WhatsApp. His WhatsApp no is 1 (518) 243-8471. Then he sends me his flight ticket from USA. On 17 March 2022, I got call from Airport immigration department- Lady Officer namely Priyanka Verma. Her contact number is 8527416816. I got call from this number regularly. On 17 March 2022, I got call from immigration department officer that my friend Dr. Hardik Bhat come to New Delhi and his luggage was seized for carrying*

excessive case in dollar currency 1,50,000 dollar he was carrying. In Indian currency, its 1 Crore 12 Lakh approx. amount. That lady officer told me that he has not with case and luggage. I can make WhatsApp call to Hardik. Dr. Hardik calls me through WhatsApp as he has USA number. He told me on call that he has to pay Rs. 75,000 as challan. And he will return to me after luggage is release by converting money. Lady told me Challan was demanded for Rs. 75,000 as per Anti money laundering Act. I paid that through my Canara Bank money banking to Saif Khan account through IMPS transfer. From my canara bank account 909526XXXXXXXX. Then on name of Reserve Bank of India fine they demanded 2,55,000/- from you to release his luggage. They also shared the Reserve Bank of India letter with Chief General Manager sign and stamp issued to Dr. Hardik on WhatsApp. I also paid that through mobile banking IMPS Transfer. From my Canara Bank account 909526XXXXXXXX Then I again got call that all money you paid will be refunded after converting them into Indian Currency then Dr. Hardik will pay your amount into your account. They asked for my passport size photo and my aadhar card details. I shared that to get my payment receipt. But I didn't got that. Again got call from lady officer she claimed that she is government officer in custom department. She said Mr. Hardik not holding international monetary fund certificate so kindly pay for that. On name of clearance certificate from IMF the demanded Rs 5,99,999/-. And also shared letter of international monetary fund issued to Dr. Hardik. I paid that Rs. 5,99,999/- into Saif Khan account again through RTGS. In bank from my Canara Bank account 909526XXXXXXXX. Then they asked for my Aadhar Card, Passport Size Photo and Account details so send on mail id Email id remittancedept@rbibnk.com And told me every formality is completed just fill the form and his USA dollar 1,50,000/- will be converted in Indian currency and given in your Canara Bank account. 1 shared my details then I got mail from fake email of RBI India. In which link was shared with customer id and password. I started filling that information of mine account details. Then its required COT (cost of transfer code) for which I have to pay fees. In that they have demanded 12,99,999/-, Is much mount not available with me and I am got so many call. Till that evening ame. They said RBI office is closed you can make payment to broker he Will provide COT code. They shared account details on name of broker. Broker name is Asif Ali. From that I paid Rs. 2,00,000/- from my Canara Bank Account 925120XXXXXXXX. Then got call that lady officer that his husband arranged 2,50,000 & 3,50,000 and for Dr. Hardik help and I have to return that they asked me to arrange 4,99,999. After converting money I have to pay Rs. 6,00,000 from Dr. Hardik account to lady officer account. They told me to arrange at night and we are keeping Dr. Hardik at Airport Staff house. As his luggage was not release. Next morning 18 March 2022, 1 said that one of my friend will pay 13 lakh first broker Asif Ali has to return 6,00,000 and 2,00,000 into my account then my friend will credit 13 lakh to broker Asif Ali account. They refused it completely morning. Then in evening I got call that we are transferring 13 lakh to your account. And one mocked image was shared of ICICI Bank that they paid to me. They started forcing me to pay 13 lakh from my friend account. As I didn't receive any amount, I *refused to pay and I told that image is mocked then they stopped replying on WhatsApp messages (Dr. Hardik) and lady officer didn't attend call.”*

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State’s counsel opposes bail and refers to the reply.

6. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.

7. Per the custody certificate dated 02.10.2024, the petitioner’s total custody in this FIR is 09 months and 09 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

8. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner’s complying with the following terms.

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I attest to the accuracy and integrity of this document

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

07.11.2024
Sonia Puri

Whether speaking/reasoned: Yes
Whether reportable: No.