2024:PHHC:133318

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50518-2023
Pronounced on: 16.10.2024

Suresh Kumar Bishnoi @ Suresh Man Singh Bishnoi .... Petitioner

Versus

State of Haryana ....Respondent

2. **CRM-M-4547-2024**

Shama Parveen .... Petitioner

Versus

State of Haryana .... Respondent

3. **CRM-M-28142-2024 (O&M)**

Johnson .... Petitioner

Versus

State of Haryana .... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate, for the petitioner in
CRM-M-50518 of 2023.

Mr. Balkar Singh, Advocate, for the petitioner in
CRM-M-4547 of 2024.

Mr. Azad Khan, Advocate, for the petitioner in
CRM-M-28142 of 2024.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Robin Singh Hooda, Advocate, for the complainant.

GURBIR SINGH, J.

1. By this common judgment, the aforesaid three petitions are being disposed off. These have arisen from the same FIR.

1.1 Prayer in these petitions filed under Section 439 of Cr.P.C. is for grant of regular bail to the petitioners, pending trial, in case FIR No.12, dated 15.05.2023, under Sections 420, 467, 468, 471, 120-B of IPC, registered at Police Station Cyber Crime Sonipat, District Sonipat.

2. As per prosecution version, the aforesaid FIR was registered on a complaint made by Shri Manjeet Khasa, Principal, Om Public School Gohana, with the allegation that said school has one current account bearing No.37720200000187 with Bank of Baroda, Gohana, in which mobile No.9215241667 was registered and the linked e-mail ID was opsgohana@rediffmail.com. The mobile number registered with the said bank account used to remain with Director, namely, Nirmal Lather and the access to the said email ID was with Accountant, namely, Karambir and IT Head, namely, Bijender. The complainant further stated that on 15.05.2023, after noon hours, they tried to access the said e-mail ID, but the same could not be accessed and the registered mobile number was also not operational. On the basis of suspicion, he contacted with the bank to know about the balance in their bank account, upon which, he was astonished to know that in the said bank account of their School, by adding beneficiary accounts in a fraudulent manner, an amount of Rs. 1,59,50,047.20 was cheated/ extracted by unknown miscreants in a fraudulent manner and caused undue loss to them. The complainant further stated that accused/miscreants, have

committed the above said fraud by changing the password of above said e-mail ID and by way of tampering with the said mobile number and have transferred the said huge amount in the fake accounts from the bank account of their School on 14.05.2023 and 15.05.2023 by using the fake documents.

2.1 During investigation, the relevant record pertaining to the account number of said school was obtained from Bank of Baroda, Gohana and it was found that Rs.65 lacs was transferred in a fake account maintained in the name of Krishna Singh with HDFC Bank and another Rs.10 lacs in his account maintained with PNB Bank; Rs.45.50 lacs in the bank account maintained with HDFC Bank in the name of Krishna Enterprises and another Rs.10 lacs in the account maintained with SBI Bank; Rs.10 lacs in the bank account maintained with AU Small Finance in the name of Ramesh Patel; Rs.19 lacs was transferred in the bank account maintained with Federal Bank in the name of Yogender Kumar.

2.2 During further investigation, on 20.05.2023, on the basis of secret information, accused Prabhu Jagdeep Patwa and Dharmendra Kumar were arrested, who suffered their disclosure statement and admitted their guilt. In his disclosure statement, accused Prabhu Jagdeep Patwa had disclosed that about one year ago, he had conversation with Odeno, a resident of Nigeria through whatsApp, who told him that he and his other associates were experts in hacking passwords of internet banking, gmail etc. and asked to open 30-40 fake bank accounts of Indian people and also directed him to include his other friends in the gang for withdrawing money from the ATM and in return, he assured to give a commission of 40%. Said Parbhu Jagdish Patwa further disclosed that when he shared these facts to his companions namely, Sunny, Dharmendra Kumar, Sharma Praveen (petitioner in CRM-M-4547-2024), they joined the gang and they further included Sarvesh and Bablu in their gang by luring them with money. It was further disclosed that said Sarvesh and Bablu got prepared fake Aadhar Cards and Pan Cards and they all got opened fake bank accounts of different persons. He further disclosed that accused Odeno told him that he could share the plan to his team and to keep them ready on 14/15.05.2023. Accordingly, on 14.05.2023, it being holiday when Odeno along with his other associates hacked the account of Om Public School and transferred the amount of Rs.1,59,50,000/- to added beneficiary accounts.

2.3 On the basis of disclosure statement of accused Parbhu Jagdish Patwa, co-accused Shama Parveen was arrested on 20.05.2023 and on interrogation, she suffered disclosure statement and admitted her guilt and disclosed that in lieu of her commission, she had demanded gold set, rings and gold tika and Sunny purchased the same from Modern Jewellers, Aminabad, Lucknow and handed over to her along with the bill. On her disclosure, one gold set, one gold ring, one gold tika with bills of Modern Jewellers and one mobile phone were taken into possession.

2.4 During further investigation, on 24.05.2023, accused Sarvesh Kumar Dubey @ Mintu and Digvijay Singh @ Bablu Patel were arrested. On 20.07.2023, accused Rajesh Vishwanath Chauhan and Suresh Kumar Bishnoi (petitioner in CRM-M-50518-2023) were arrested. On the basis of disclosure statement of accused Suresh Kumar Bishnoi, one Toyoto Fortuner vehicle, 19 cheques pertaining to Ramesh Patel, his two aadhar cards and two phones of Samsung were recovered. On the identification of accused Rajesh Vishwanath Chauhan and Suresh Kumar Bishnoi, co-accused Johnson (petitioner in CRM-M-28142-2024) and Francies were arrested on 24.07.2023. Accused Johnson disclosed that he was resident of Imostate (Nigeria) and came to India on business visa in 2016 and lived in Church in Mumbai. In 2022, he came in contact with Odeno, Mofi and Phillip (all Nigerian), who encouraged him for cyber frauds.

3. Learned counsel appearing on behalf of the petitioner in CRM-M-28142 of 2024 has argued that the petitioner-Johnson has been falsely implicated in the present FIR. Except disclosure statement, there is no other evidence against him. No money has been transferred in his account. Petitioner is in custody since 24.07.2023. He is not involved in any other case.

3.1 At this stage, learned senior counsel appearing on behalf of the petitioner in CRM-M-50518 of 2023 also joined the arguments and stated that petitioner-Suresh Kumar Bishnoi @ Suresh Man Singh Bishnoi is in custody since 20.07.2023. There is no other case against him. Investigation in the case has been completed and challan has already been presented. The main persons, namely, Ramesh Patel, Yogendra Kumar and Shree Krishan Singh in whose accounts the alleged amount has been transferred have neither been arrayed as accused nor they have been arrested. The police have rather induced Ramesh Patel as a prosecution witness and foisted his cheques upon the petitioners. The conduct of complainant is doubted as it cannot be presumed that the alleged siphoning of such a huge amount was done without the knowledge of Nirmal Lather, Director of Om Public School, who used to receive the OTP; Accountant Karambir and IT Head Bijender, who used to access the official e-mail. It is further argued that the case is triable by Magistrate and the veracity of police investigation would certainly be tested before the court of learned Magistrate. Reliance is placed on case ***Sanjay Chandra Versus CBI, (2012) 1 SCC 40; Satender Kumar Antil Versus Central Bureau of Investigation and another, 2022 SCC OnLine SC 825***.

3.2 Learned counsel appearing on behalf of petitioner in CRM-M-4547 of 2024 has argued that the petitioner-Shama Parveen has not been named in the present FIR. On the basis of disclosure statement of Prabhu Jagdish Patwa, she has been nominated in the present case. No money was transferred in her account. She is not the beneficiary. There is no evidence against the petitioner to connect her with the offence in question. She has no concern with Krishna Enterprises. As per allegations, co-accused Sunny has got the jewellery and given to the petitioner. If it is accepted as truth, then also the petitioner is not involved in the alleged offence as how she would come to know that co-accused Sunny had purchased the jewellery from the alleged amount for her. She is in custody since 20.05.2023. Nothing is to be recovered from her. She is not involved in any other case.

4. Learned State counsel as well as learned counsel appearing on behalf of the complainant have opposed the respective petitions on the

ground that the allegations against the petitioners are serious in nature. The petitioners are instrumental in a big cyber fraud. They in connivance with each other hatched a criminal conspiracy and hacked the account of Om Public School, Gohana and got transferred the amount in different accounts. Learned State counsel has not disputed the custody of the petitioners and the fact that they are not involved in any other case.

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

6. As per the evidence collected, the petitioner Johnson is a citizen of Nigeria and is closely associated with Odeno, Mofi and Phillip, who were operating from their country Nigeria. He collected bank account numbers. He joined co-accused Suresh Bishnoi on commission basis, who opened the bank account in the name of Ramesh Patel in different banks and provided details of the same to the petitioner-Johnson. They hacked the account of the school and got the amount transferred fraudulently in the AU Small Finance Bank and then further transferred in other bank accounts of Ramesh Patel. The whole amount of Rs.10 lacs was withdrawn from ATM by Suresh Bishnoi and after keeping his 10% commission, Suresh handed over the remaining money and Debit Cards of the account to the petitioner. He kept his 4% commission i.e. Rs.40,000/- and handed over the remaining money to another Nigerian. Out of Rs.40,000/-, Johnson spent Rs.37,700/- on his lavish lifestyle and remaining Rs.2,300/- was got recovered from his rented room at Navi Mumbai.

6.1 As per the disclosure statement of Prabhu Jagdeep Patwa, petitioner-Shama Parveen was arrested. The specific role of petitioner

Shama Parveen is that on her disclosure statement, got recovered one gold set, one gold ring, one gold tika with bills of Modern Jewellers and one mobile phone. As per allegation, she got that jewellery by way of commission. No money was transferred in her account. The jewellery was purchased by co-accused and was given to her.

6.2 The specific role of the petitioner-Suresh Kumar Bishnoi is that he used to withdraw the amount from the hacked bank account and handover the amount to co-accused and used to get 10% commission. He also opened the bank account in the name of Ramesh Patel on the basis of forged documents and withdrew Rs.10 lacs from said account and handover the amount to co-accused Odeno, Philips. On the basis of his disclosure statement, one Toyoto Fortuner vehicle, 19 cheques in the name of Ramesh Patel, two aadhar cards of Ramesh Patel and two phones of Samsung brand were recovered.

7. Considering the fact that the petitioners-Shama Parveen, Suresh Kumar Bishnoi @ Suresh Man Singh Bishnoi and Johnson are in custody since 20.05.2023, 20.07.2023, 24.07.2023 respectively; investigation in the case has been completed; challan has been presented; culpability of the petitioners would be decided during trial and trial in the case will take some time to conclude; although online/cyber frauds are increasing day-by-day and money lying in the bank accounts is not safe, but long incarceration during trial will not serve any purpose and discussing evidence at this stage may adversely affect the decision of the trial, this Court deems it appropriate to release the petitioners on regular bail.

8. Accordingly, without commenting on the merits of the case, the present petitions are allowed and the petitioners are ordered to be released on regular bail subject to their furnishing bail bonds and surety amount of Rs.3 lacs each, to the satisfaction of concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate, with the further condition that they shall get their mobile number registered in the trial Court for receiving messages on CIS system and shall not change their mobile number during the pendency of the case. They shall also furnish their residential address to the trial Court as well as to the concerned police station and shall not change their residence without intimation to the concerned police station. Further, they shall report before the concerned police station on 1st and 3rd Saturday of every month. In case of default, the trial Court is free to cancel the bail granted to the petitioner.

9. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of material available before it.

10. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

October 16, 2024
sanjeev

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