<u>IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH</u>.

<u>Date of Decision:-06.02.2024</u>

<u>CRM-M-51132-2023(O&M)</u>

<u>Gopi Chand @ Manav @ Manu</u>.

......Petitioner.

Vs.

<u>State of Punjab & Anr</u>.

......Respondents.

AND

<u>CRM-M-54872-2023</u>

<u>Amrik Singh</u>.

......Petitioner.

Vs.

<u>State of Punjab</u>.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Suneet Pal Singh Aulakh, Advocate for the Petitioner (in CRM-M-51132-2023).

Mr. Rhythem Bajaj, Advocate for the Petitioner (in CRM-M-54872-2023).

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

Mr. Naresh Prabhakar, Advocate for the Complainant.

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<u>JASJIT SINGH BEDI, J.(ORAL</u>)

By this common order I shall dispose of both the aforementioned petitions as the same have arisen out of one and the same FIR.

2. The prayer in these petitions under Section 439 Cr.PC is for the

grant of regular bail in case FIR No.66 dated 23.06.2023 under Sections 419, 420, 384, 506, 201, 120-B IPC and Section 66(C) & 66(D) of the Information Technology Act, 2000 registered at Police Station Shimlapuri, Police Commissionerate Ludhiana, District Ludhiana, Punjab.

3. The present FIR came to be registered at the instance of Bhanu Partap Singh son of Shri Bhanwar Pal Singh which reads as under:-

> " *Statement of Bhanu Partap Singh son of Shri Bhanwar Pal Singh, resident of House No. 4653/1/1 Gali No. 11, Quality Chowk Shimlapuri Ludhiana aged 34 years, Mobile No. 98145-59518. Stated that I am resident of above said address for about 7 years and that I was driving my car bearing no. PB-01- C4429 make Eon with OLA UBER CAB and during that period, I met with Gopichand @ Manav @ Manu son of Late Jagdish Lal, resident of House No.2113, Street No.25, Janta Nagar, Ludhiana (Aadhar No. 9363-9744-5035, Mobile No. 95922-99664, 70590- 00059, who was living on rent in my street for the last 3 years and was working as a taxi driver. That my work was not going on well and due to this reason, then Manav told me that I will get you a business loan, so you can do any business. On which I agreed to take the loan, one day, Manav made me talk to a person on his phone, pretending to be the manager of PNB Bank, and that person told me that he was the manager of Punjab National Bank. That you open your savings account in Punjab National Bank and give the account details and the photocopies of your Aadhar card, PAN card etc. documents to Gopi Chand alias Manav, then I will call you to the bank for 3-4 days and get your loan. On 31.01.2023, I purchased a new SIM card no. 9779554173 of Airtel company and got opened account no. 4862001700090164 in Punjab National Bank, Near Quality Chowk Shimlapuri, Ludhiana and handed over the required documents to Gopichand @ Manav, after 08 days, 1 received a message on my mobile phone regarding credit of amount of Rs.97,00,000/- in my bank account, upon which, I became perplexed and called Gopichand @ Manav, who came to the my house and I showed the message to Gopi Chand @ Manav then Gopi Chand @ Manav immediately picked up the phone and deleted the loan message and who said that your*

loan is done. Subsequently, I had started receiving calls from various people on my mobile phone number, which was attached with my bank account. On this, Gopichand @ Manav took my SIM card and told me that your phone number has been noted by the officials of Cyber Crime Cell and hence, we have to settled the matter with those officials. After that, Gopichand @ Manav put my SIM card in his own mobile phone and started receiving the phone calls and he told me that the persons making phone calls that I have to discussed the matter with Crime Branch Officials, so you should not worry about anything and I will settled the matter with those officials. Thereafter, Gopichand @ Manav took cash amounts of Rs. 10 Thousand, sometimes 15 Thousands from me on different dates by threatening me in the name of Police, Income Tax Department, Courts etc. Some amounts were paid through online mode whereas some were paid in cash. Suddenly, 1 had started receiving various OTPs on my other two phone nos. 98780-41765, 83604-27613, upon which, Gopi Chand told me that Income Tax Officials have come to know about the matter and then, he demanded Rs.3,00,000/- from me. On this, I mortgaged my car and paid Rs.2,30,000/- to Gopichand @ Manav in cash and Rs.70,000/- online through his Phone Pay No. 98922-99664. Apart from this, I paid various amounts to Gopichand @ Manav on different dates by selling my jewellery and other articles as well as borrowing the money from my relatives. After that, Gopichand @ Manav started threatening me on the pretext that you person belongs to Uttar Pradesh and Punjab Police can apprehend you at any time. Gopichand @ Manav continuously took money from me every day on the pretext of settling the matter and in this process, I has sold my phones. After that, I was very worried then I told the whole thing to my elder brother Hamir Singh, and after that we both registered Manav's account number 65057900309 Branch SBI Janta Nagar Ludhiana from our accounts and 0763001738306 Branch PNB Bank through Phone Pay and PayTM and Google Pay to transfer online from time to time as per above details. Thus, we transferred the money online i.e. for Rs. 3000/- on 01.02.2023, Rs. 1000/- on 09.02.2023, Rs. 5000/- on 10.02.2023, Rs. 2000/- on 11.02.203, Rs. 2000/- on 19.02.2023, Rs. 2000/- on 25.02.2023, Rs. 35000/- on 03.03.2023, Rs. 20000/- on 13.03.2023, Rs. 10000/- on 20.03.2023, Rs. 5000/-

on 24.03.2023, Rs. 30000 on 07.04.2023, Rs. 15000/- on 11.04.2023, Rs. 12900 on 13.04.2023, Rs. 20000 on 16.04.2023, Rs. 5000/- on 17.04.2023, Rs. 15000/- on 18.05.2023, Rs. 10000/- on 29.05.2023, Rs. 15000 on 02.06.2023. After selling my phone, OTP and calls also started coming on my brother's phone number 98145-59518 and sister-in-law's number 76965-19365 and he kept scaring us every day with a new excuse that the police here is very dangerous, you and your family can apprehended at any time. We kept coming under the threat of Manav and he kept threatening us not to tell anyone and he did not give us a chance to tell anyone. Manav used to stay with us from 6:00 AM to 11:00 PM and kept our phones with him and kept taking money on any pretext. On May 10, our elder brother died and at that time my whole family and I went to our village. Even after that Manav kept calling and asking for money, still I kept giving him money. After that, he changed his rented house after I moved to UP and he didn't disclose his current address, but still kept calling for demanding money. After that, Gopichand @ Manav dschaudhary2@gmail.com IDs and sandeepsinghwadhara@gmail.com and he started sending threatening messages and emails from these email IDs and phone number 82642-24317, which to shown on True-Caller to be of Income Tax Department, to my email ID bpsingh018@gmail.com, my brother's email ID hammir1984singh@gmail.com and my sister-in-law (Bharjai)'s email ID dolly4830singh@gmail.com and once on a conference call, he told a senior police officer Sandeep Singh Wadera and he said that do as Manav says, everything will be fine. In this way, he kept taking money from me every day by saying that sometimes he was setting up with the income tax man, setting up with the judge, sometimes he was meeting with the policeman. Till date, we have paid 11 lakh 45 thousand rupees to Manav, but we have not got any relief from him. Manav @ Gopichand used to say that I am identified with Commissioner Sandeep Singh Wadera, all my placements have been done through him. We were very scared. Now I am badly ruined, we are not able to do anything, because my vehicle is also mortgaged and my elder brother also used to work in a private company, that too has been released. I am financially ruined. After these things happened, I got my new account checked through an acquaintance *and there was only 500/- rupees in it and no other loan money, 97 lakh rupees had been deposited. On which Manav and I got suspicious, I started investigating on my own, from which I came to know that a person Amrik Singh son of Surinder Singh resident of House No. 10779/A, Street No. 9, Kot Mangal Singh Janta Nagar, Ludhiana, is involved with Gopi Chand alias Manav, who works in the name of property. He, along with Manav, sometimes pretending to be a police commissioner, sometimes a bank employee, was pressuring me by calling me and pretending to be a Higher Officer and Manav continued to cheat me by taking money in exchange for setting up with the police and other departments and I have also come to know that Manav has created social site Facebook in the name of different girls Ruchikadhiman Url Link https://www.facebook.com/ruchika.dhiman.5648 and jaspreetrandawa Url Link https://www.facebook.com/sophia.decosta/ etc. by creating a fake ID, he chats with the boy and takes them in his sweet talks and cheats them by transferring money online to his accounts. I am ruined in terms of money and I am very upset, please find the accused, take legal action against them and return the money they cheated me by threatening me and let justice be done to me and my family. I have got recorded my statement to you, read over, heard it, which is correct. Sd/- Bhanu Partap.*"

3. The Counsels for the petitioners contend that they have been falsely implicated in the present case. The prosecution case was inherently unbelievable. There was no evidence that any SMS pertaining to the receipt of Rs.97 lacs in the account of the complainant had been received on the mobile phone of the complainant. As the case was triable by the Court of a Magistrate and the petitioners were in custody since 24.06.2023 but none of the 16 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and, therefore, the petitioners were entitled to the concession of bail.

4. The Counsel for the State and the Counsel for the complainant

on the other hand contend that the investigation conducted so far clearly establishes the allegations levelled in the FIR. It was apparent that the petitioners had cheated the complainant for a huge amount of money on one pretext or the other. Therefore, the nature of the allegations levelled against the petitioners did not entitle them to the grant of bail. They however concede that the petitioners were first time offenders, in custody since 24.06.2023 and that none of the 16 prosecution witnesses had been examined so far.

5. I have heard learned Counsel for both the parties at length.

6. This Court in the case *titled as* ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab*** bearing ***CRM-M-24033-2021(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. Admittedly, the petitioners are first time offenders, in custody since 24.06.2023 and none of the 16 prosecution witnesses have been examined so far. Nothing significant has been pointed out by the State that the petitioners would abscond from the Trial, tamper with the evidence or influence the witnesses if they are granted the concession of regular bail. Therefore, their further incarceration is not required.

8. Thus, without commenting on the merits of the case, the

petitioners-**Gopi Chand @ Manav @ Manu** son of Sh. Jagdish Lal and **Amrik Singh** son of Sh. Surinder Singh are ordered to be released on bail subject to their satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioners 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 they are not involved in any other crime other than the present case.

10. The petitioners (or anyone on their behalf) shall prepare an FDR in the sum of Rs.2,00,000/- each and deposit the same with the Trial Court. The same would be liable to be forfeited in accordance with law in case of the absence of the petitioners from the Trial without sufficient cause.

11. The Petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 06, 2023
Vinay

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