

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-50582-2024  
Reserved on: 04.11.2024  
Pronounced on: 12.11.2024

Nitin Sharma @ Nitish Sharma ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.S.Nirmaan, Advocate  
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station                                            | Sections                                             |
|---------|------------|-----------------------------------------------------------|------------------------------------------------------|
| 0033    | 15.09.2023 | Cyber Crime Ballabgarh,<br>District Faridabad,<br>Haryana | 386, 419, 420, 467, 468, 471,<br>120-B, 201, 204 IPC |

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. Per paragraph 9 of the bail application, the accused has the following criminal antecedents:

| Sr. No | FIR No. | Date       | Offenses                                   | Police Station                     |
|--------|---------|------------|--------------------------------------------|------------------------------------|
| 1      | 23      | 06.03.2024 | 420, 120-B, 467, 468, 471, 201 and 204 IPC | Cyber Crime, Ballabgarh, Faridabad |

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

*“3. That the brief facts of the present case are that a complaint was submitted by Ruchi Kumari alleging therein that on 05.09.2023, she had received a call on her mobile phone no. 9716127568, from mobile no. 7718831693. The caller disclosed himself as Kartikey and told that he is calling from Fed Ex Company, Mumbai, and also told that her parcel that was to be*

*dispatched from Mumbai to Taiwan, had been cancelled and transferred the call to customer care. The complainant told them that she had not sent any parcel, to which they informed that it was possible that her Aadhar Card number might have been linked since the parcel was in her name only and the Mumbai Police had stopped the parcel at Customs. The parcel was containing some clothes, five Passports, five Credit Cards of SBI, one Laptop and 650 grams of MDMA (i.e. a contraband). It was informed that the FIR has also been registered against her and in case, she had nothing to do with the aforesaid luggage, she had to obtain Clearance from Mumbai Crime Branch. Thereafter, she was made to talk to a man who claimed to be an official of Mumbai Crime Branch, and disclosed the Aadhar Card, to her, while also telling her that a lot of illegal activities were going on in context with her Aadhar Card and that her Aadhar Card was also having links with terrorist activities. She was asked to contact them on Telegram and Skype and her photograph was taken, illegally on Skype and threatened to send them money if she wanted to do away with the case as they were linked with terrorist activities also. As a result, she transferred total amount of Rs. 16,23,562/- under fear in the bank account number 0865002100019514 of PNB. Prayer was made for taking legal action. Thereupon, the above mentioned FIR No. 33 dated 15.09.2023 u/s 386, 419, 420, 120-B IPC (Later on added Section 467, 468, 471, 201, 204 IPC) was registered at P.S. Cyber Crime, Ballabgarh, Faridabad.”*

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 status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

*“9. That the role of the petitioner Nitin Sharma in the present case is that he had obtained the 'Yes Bank current account of Dewan Cargo from his co-accused and the petitioner had further provided the same to one girl named Ashmi in Jaipur on commission basis. In the said account, the amount of Rs. 3,48,000/- was transferred from the account of Imran Telecom which was provided by accused Rahees Ahmed Khande. At the time of the present occurrence, the sim card registered with the above mentioned current account was being used by the petitioner. The petitioner has got recovered Rs. 4,000/- out of his share of the amount of fraud. He has also got recovered two mobile phones along with two sim cards used in the present crime i.e. for WhatsApp chats and for registering in the bank account. The petitioner has got also recovered four PAN cards, four Aadhaar Cards, three voter cards, two bank related pages, ten*

*debit cards, one mobile phone, two sim cards and one laptop used in other crimes.”*

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 8 of the bail petition, the petitioner has been in custody since 02.03.2024. Per the custody certificate dated 04.11.2024, the petitioner’s total custody in this FIR is 08 months and 03 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability further pre-trial incarceration at this stage.

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.

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

12.11.2024  
Jyoti Sharma

Whether speaking/reasoned: Yes  
Whether reportable: No.