2025:PHHC:050018

215+225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-14837-2025
DECIDED ON: 07.04.2025

MAHENDRA NAI
.....PETITIONER

VERSUS

UT CHANDIGARH
.....RESPONDENT

AND

2. CRM-M-17751-2025

SANDEEP KUMAR
.....PETITIONER

VERSUS

UT CHANDIGARH
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Naveen Bawa, Advocate
for the petitioner (in CRM-M-14837-2025).

Mr. Simranjit Singh, Advocate
for the petitioner (in CRM-M-17751-2025).

Mr. Manish Bansal, PP, UT Chandigarh.

SANDEEP MOUDGIL, J

By way of this common order, this Court intends to dispose off both the petitions together, as both have been arisen out of the same FIR.

1. Relief Sought

The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for the grant of Regular Bail to the petitioners namely Mahendra Nai (petitioner in CRM-M-14837-2025) and Sandeep Kumar (petitioner in CRM-M-17751-2025) in case FIR No. 66, dated 05.07.2024, under Sections 319(2), 318 (4), 338, 336 (3), 340 (2), 61(2), 111(2), 111 (3), registered at Police Station Cyber Crime, Chandigarh.

2. Facts

The prosecution story as set up in the present FIR reads as under:-

"To the SHO, PS Cyber Crime Sector 17, Chandigarh. Respected Sir, it is submitted that on dated 01.07.2024, I was present at home then about 4.52 PM, I received a call on my mobile number- 9815844011 from mobile number- 9915206724. Caller stated that he is from Crime Branch, Mumbai, a mobile number 9898053277 is issued against your Aadhaar card. Now, Mr. Naresh Goyal is using that mobile number, there are 24 complaints of money laundering against this number. Case is in Supreme Court and you will be arrested soon. We are doing preliminary enquiry against you, so you have to deposit 280 lakhs in secret account of surveillance. If you are found innocent then amount will be refunded to you. During this two men, one lady talked me, they directed to me for uploading Skype app, which was uploaded by me. They sent me an order copy in which some information against Naresh Goyal for illegal cases. They were watching me through Skype app, giving direction me to keep lonely myself in a separate room without sharing any information to anybody. On dated 02.07.2024 they gave me direction to go in bank and transfer the money. During this they sent account number 250010619711 of IndusInd Bank, through WhatsApp number 7751075919. I felt insecure and reached in State Bank of India at Sector-7 and broken my all; fixed deposits from different accounts and €80,31,764. 35 transferred in the above mentioned account of IndusInd bank through RTGS. Today, they sent me a message. Where are you going, you are with whom through WhatsApp. I realized there was a scam. Please take necessary action against scammers. SD/- Pratipal Kaur resident of house number 268, sector 11-A, Chandigarh, 160011, 9815844011 dated 03.07.2024. DOB12.03.1947. Inquiry by Police - one complaint number registered ICMS 2024018634 dated 03.07.2024, Acknowledgement number 30607240002420 dated 03.07.2024, made by Pratipal Kaur, resident of 268, sector 11-A, Chandigarh, has been received in the police station. An enquiry was conducted after taking approval from the senior officials and it has been directed to conduct investigation and register FIR. Accordingly, FIR number 66 dated 05.07.2024 under sections 319 (2), 318(4), 338, 336(3), 340(2), 61(2), 111(2), 111(3) of BNS2023 PS cybercrime, Chandigarh against unknown persons. Original documents with copy of police proceedings were sent through hands of ASI Gulab Singh 124/CP for investigation. Copy of FIR is sent to the higher officials."

3. ***Submissions***

On behalf of the Petitioner

Learned counsel for the petitioner, **Mahendra Nai**, submits that the petitioner has been falsely implicated in the present case. It is contended that the FIR was initially registered against an unknown person, and the name of the petitioner neither finds mention in the FIR nor is there any specific allegation linking him to the alleged offence. In particular, it is submitted that there is no allegation that the bank account bearing No. **250010619711** with IndusInd Bank, in which the amount was allegedly deposited, belongs to the petitioner. Similarly, the mobile number **99152-06724**, from which the alleged fraudulent call was made, is not registered in the name of the petitioner nor has any nexus been established between the said number and the petitioner.

It is further submitted that the petitioner has been made a scapegoat and falsely roped into the case without any cogent or credible evidence. During the trial, the complainant was examined as **PW-2**, and in her cross-examination, she categorically admitted that the petitioner neither contacted her nor made any fraudulent call to her. She also failed to identify the petitioner as being involved in the alleged transaction.

It is argued that the entire prosecution case rests merely on suspicion and surmises, and no direct involvement of the petitioner has been established. There is no material on record to suggest that the petitioner made any call to the complainant or played any role in the inducement or receipt of the alleged amount. Furthermore, no forensic or technical evidence, such as **Call Detail Records (CDRs)**, **IP logs**, or **financial transaction trails**, have been produced by the prosecution to link the petitioner with the alleged offence. The WhatsApp number purportedly used to send the bank details is also not traceable to the petitioner.

In the absence of any direct communication, transaction, or evidence indicating conspiracy or shared intent, the prosecution has utterly failed to make out a *prima facie* case against the petitioner. Thus, his implication is arbitrary and without any legal justification.

Learned counsel for the petitioner, **Sandeep Kumar**, submits that the sole basis for implicating the petitioner appears to be that an amount of **Rs. 4,97,000/-** was transferred into his bank account. It is, however, contended that the petitioner has no knowledge of the alleged caller or the fraudulent transaction. The petitioner had no involvement in the commission of the alleged offence.

It is further submitted that immediately upon the discovery of the said transaction, the petitioner's father voluntarily refunded the entire amount to the complainant on the same day, thereby demonstrating the bona fide and non-complicit conduct of the petitioner and his family. The petitioner asserts that he is unaware of the origin or nature of the funds deposited and had no role in facilitating or abetting the alleged fraudulent act.

Accordingly, prayer is made for grant of regular bail, as the mere receipt of funds without any corroborative material indicating *mens rea*, communication, or conspiracy, cannot justify his continued prosecution in the present matter.

On behalf of the State.

Learned state counsel has produced the custody certificates of the petitioners which are taken on record. According to which the petitioners have suffered incarceration for a period of more than 8 months, as of now. He prays for dismissal of the present petition stating that an amount of Rs.7,58,835/- was transferred in the account of petitioner-Mahendra Nai and an amount of Rs.4,97,001/ was transferred in the account of petitioner-Sandeep Kumar, meaning thereby, both the petitioners have actively participated in commissioning of offence.

Heard learned counsel for the respective parties at length.

5. ***Analysis***

The complainant has alleged that on 01.07.2024, she received a phone call on her mobile number 9815844011 from mobile number 9915206724. The caller introduced himself as an officer from the Crime Branch, Mumbai, and informed her that a mobile number (9898053277) allegedly issued against her Aadhaar number was being misused by one Mr. Naresh Goel. It was further stated that 24 money laundering complaints were registered against the said number and that the matter was pending before the Hon'ble Supreme Court. She was falsely informed that a preliminary inquiry was being conducted against her, and in order to avoid arrest, she was required to deposit a sum of ₹80 lakhs into a "Secret Surveillance Account." The caller further assured her that if she was found innocent, the amount would be refunded.

During the conversation, two men and one woman interacted with the complainant and instructed her to download the Skype application. After doing so, the accused sent her a document purporting to be an order containing details of criminal proceedings involving Mr. Naresh Goel. They monitored her through the Skype app and directed her to remain isolated in a separate room, forbidding her from sharing any information with anyone.

Subsequently, an account number—**250010619711 (IndusInd Bank** was sent to her via WhatsApp from mobile number +91-7751075919. Under duress and feeling threatened, the complainant visited the State Bank of India, Sector-7, and prematurely liquidated all her Fixed Deposits from various accounts. She then transferred a total amount of ₹80,31,764.32 via RTGS into the aforementioned IndusInd Bank account. It was later revealed that this was a fraudulent act.

Investigation Findings:

During the investigation, the CAF (Customer Application Form) and CDR (Call Detail Records) of the calling number 9915206724 were obtained. It was found to be a virtual number. The statement and details of the alleged IndusInd Bank account (250010619711), in which the complainant transferred ₹80,31,764.32, were obtained. Analysis revealed that the fraudulent funds were dispersed into several other bank accounts.

From the total defrauded amount, a sum of ₹7,58,835/- was found to have been transferred to Indian Bank account number **7792592210**, which, as per KYC documents, was registered in the name of **Mahendra Nai**.

On 09.07.2024, accused Mahendra Nai was apprehended from his residence. Upon interrogation, he admitted to opening the said bank account under the instructions of his acquaintances, namely **Poonam Chand**, son of Ram Kumar, resident of VPO Kathoti, PS Javal, District Nagaur, Rajasthan, and **Vikas Bhamboo**, resident of Village Dehri, Rajasthan. He further disclosed that he had handed over the signed cheque book, ATM card, and passbook to them in exchange for a 10% commission on each transaction.

Further investigation revealed that an amount of ₹4,97,001/- had been transferred from the IndusInd Bank account to **Bandhan Bank account number 20200037276379**, registered in the name of **Sandeep Kumar**, son of Banwari Lal, resident of Palthana, Sikar, Rajasthan. Upon interrogation, **Sandeep Kumar** admitted to opening the account under the instructions of one **Abhishek** and disclosed that he had withdrawn the amount via cheque on the same day. After deducting a commission of ₹4,000/-, he handed over the remaining cash to Abhishek.

6. ***Conclusion:***

In view of the foregoing facts and circumstances, this Court is of the considered opinion that both petitioners have actively participated in the commission of the offence and were knowingly involved in the fraudulent scheme. Their conduct, including the use of their bank accounts for the transfer and withdrawal of proceeds of crime, establishes prima facie complicity in the financial fraud perpetrated against the complainant.

Hence, looking into the facts of the present case and the gravity of the offence, both the petitions stand dismissed.

However, it is made clear that the observations made herein above shall have no bearing in the mind of the trial court while adjudicating the matter in accordance with law.

(SANDEEP MOUDGIL)
JUDGE

07.04.2025
sham

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