

(2019) 09 J&K CK 0042

In the Jammu And Kashmir High Court

Case No : Bail Application No.120 Of 2019, CrIM No. 18 Of 2019

Vishal Bhagat

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 13-09-2019

Acts Referred:

Jammu And Kashmir State Ranbir Penal Code, 1989 — Section 120B, 170, 171, 420, 467, 468, 471

Code Of Criminal Procedure, 1973 — Section 161

Citation : (2019) 09 J&K CK 0042

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : Anil Sethi, Rajnesh Oswal

Final Decision : Dismissed

Judgement

Tashi Rabstan, J

1. This petition has been filed by the petitioner Vishal Bhagat seeking bail in case FIR No. 28/2019 under Sections 420,467,468.471 RPC, 170, 171, 120-B RPC registered with Crime Branch Jammu.

2. Learned counsel for the petitioner contends that before approaching this Court, the petitioner has also approached the court of learned Additional Sessions Judge, Jammu for grant of bail, which came to be rejected vide Order dated 04.07.2019

3. The facts in brief are that a written complaint has been received by the Crime Branch, Jammu wherein it has been alleged that Kulbinder Singh S/O Karnail Singh R/O Deharan Akhnoor Road near Mishriwala, Jammu, who has been dismissed from Indian Army, lures youths of Jammu by impersonating himself as Army Colonel and collected huge amounts ranging from two to five lacs for recruiting them in the India Army. The said accused has also issued various fake appointments orders in favour of various innocents youths after taking huge

amount from them and he used to wear army officer's uniform and has also kept a laptop for preparing fake orders in connivance with (1) Vishal Bhagat R/O Dream City (2) Harsh Verma @ Sahil Sharma R/O Janipur Press WaliGali (3) Ricky Chib step brother of the accused. On receipt of this complaint, a preliminary verification was conducted by the Crime Branch, Jammu and on the basis of said verification, it was prima-facie found that accused in connivance with

(1) Vishal Bhagat R/O Dream City (2) Harsh Verma @ Sahil Sharma R/O Janipur Press WaliGali (3) Ricky Chib was indulging in luring the youths by inducement and provides them fake orders after receiving huge amounts from them. Accordingly, a case FIR No. 28/2019 under Sections 420,467,468.471 RPC, 170, 171, 120-B RPC was registered with Crime Branch Jammu against (1) Kulbinder Singh S/O Karnail Singh, R/O Deharan, Akhnoor Road, near Mishriwala, (2) Vishal Bhagat R/O Dream City (3) Harsh Verma @ Sahil Sharma R/O Janipur Press Wali Gali (4) Ricky Chib and the investigation of the case was taken up and vide order dated 24.05.2019 a SIT was constituted under the supervision of Dy. Superintendent of Police, Crime Branch, Jammu. During the course of investigation, inquiry report file consisting (1) leaves and 08 photographs were seized and statement of the complainant along with witnesses under Section 161 Cr.PC were recorded and, accordingly, accused (1) Kulvinder Singh @Vicky son of Karnail Singh R/O Village Deharan, Tehsil Bhalwal, District Jammu (2) Sunil Singh @ Vicky son of Karnail Singh R/O Village Deharan, Tehsil Bhalwal, District Jammu and (3) Vishal Bhagat S/O Subash Chander R/O Lale-da-Bagh Lower Barnai, Jammu were arrested and interrogated.

4. Learned counsel for the petitioner contends that the petitioner was working at the residence of one Kulbinder Singh, an Ex-Army Officer and used to get monthly wages from the said Army Officer and was doing his domestic works at his residence at Lower Roop Nagar, Jammu. It is contended that the petitioner was never aware of the business activities, source of income of his employer and used to get his monthly wages in view of the work performed by him at the residence of said Army Officer. It is also contended that the Crime Branch raided the residence of Kulbinder Singh and while the petitioner was performing his duties in routine he was also taken into custody and later was levelled as an conduit of said Kulbinder Singh and fictitious story was planted by the Crime Branch that he has been activating in collusion with Kulbinder Singh for extracting money from the people. Learned counsel for the petitioner also contends that the petitioner has nothing to do with the activities of Kulbinder Singh and being an unemployed 12th pass, he was working as domestic servant only and had no access or knowledge about the business/source of income/ activities of Kulbinder Singh, an Ex-Army Officer. He further contends that there is absolutely no evidence linking the petitioner with the allegations of assuring the people of job or receiving money. He also contends that the petitioner approached the trial Court for grant of bail, but, the learned trial Court without discussing the evidence rushed to conclude that the petitioner was part of some gang or conspiracy. It is also contended that the investigation in the case has

proceeded for ahead and nothing cogent has been found against the petitioner so. It is also contended by learned counsel for the petitioner that the petitioner undertakes to abide by all such terms and conditions as are found just and proper by this Court while enlarging them on bail.

5. On the other hand, learned counsel for the respondents contends that accused exploited the pitiable situation of innocent youths, did not even think for a second that how brutally they are exploiting their innocence. He further contends that a detailed verification was conducted and after accord of approval from Crime Headquarters, J&K Srinagar, the preliminary charge sheet of the instant case has been produced before the court of City Judge, JMIC, Jammu against the accused persons, namely, (1) Kulvinder Singh @Vicky son of Karnail Singh R/O Village Deharan, Tehsil Bhalwal, District Jammu (2) Sunil Singh @ Vicky son of Karnail Singh R/O Village Deharan, Tehsil Bhalwal, District Jammu and (3) Vishal Bhagat S/O Subash Chander R/O Lale-da-Bagh Lower Barnai, Jammu. He further contends that money trail, bank statements, FSL/CFSL reports etc. are yet to be collected and after obtaining the same fully and arresting other accused, a supplementary charge sheet (challan) would be produced separately before the Court. He also contends that the investigation of the case is in progress and if the accused is enlarged on bail, he would be emboldened and may not only escape, but, will disappear and will also destroy the vital evidence, influence the witnesses as well. Thus, learned counsel prays that the accused may not be enlarged on bail.

6. Heard learned counsel for the parties and perused the record.

7. The respondents have contended that they have filed the preliminary charge sheet before the trial Court against the petitioner and other accused persons. The contention raised by the petitioner pertains to the merit of the case, which cannot be looked into at this stage, particularly, when the charge sheet against the petitioner has been filed before the trial Court and the trial Court has ceased of the matter. Since the allegations against the petitioner are very serious vis-à-vis duping innocent youths of their moneys on the pretext of getting them adjusted in MES and Indian Army, as such, the petitioner at this stage is not entitled to concession of bail as the offences prima-facie look to be very grievous with huge impact on the society. The offences, in the present case, are economic offences as there are serious allegations of duping the innocent youths of their moneys and the Hon'ble Apex Court has already held in number of cases that in economic offences, the Court should take serious view of the allegations notwithstanding the quantum of punishment to be imposed in the said economic offences.

8. In the given circumstance, this Court finds no merit in this application and the same is, accordingly, is rejected and dismissed along with connected CrIM(s). However, the petitioner shall be at liberty to approach the trial Court for grant of bail and the trial Court shall consider the same without getting influenced in any manner what has stated hereinabove.

9. Dismissed as above along with connected CrIM(s).