

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46962-2024
Reserved on: 13.11.2024
Pronounced on: 29.11.2024

Vivek Kumar Gautam ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Thakur, Advocate for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
304	27.06.2024	Jind City	406, 420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. In the bail application, the petitioner is silent about criminal antecedents. However, as per paragraph 9 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Dated	Offenses	Police Station
1.	626	07.08.2021	354 (D), 509, 506, 34 IPC	Dabri Police District Dawarka
2.	107	27.02.2021	420, 406 IPC	City Jind

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

“2. That the brief facts of the case are that on the complaint of the respondent No.2-Vikas, son of Mr. Rajender Sharma, resident of Ajmer Basti, Bhiwani Road, Jind, a case bearing FIR No.304 dated 27.06.2024 u/s 406, 420 IPC was registered at Police Station City Jind (Annexure P-1). The complainant in the complaint has averred as under:-

"Sir, the request is that I am Vikas, son of Mr. Rajender Sharma, resident

of Ajmer Basti, Bhiwani Road, Jind. 1. That I am resident of the above address. 2. This is that I, the applicant, had gone to Ambala on 12/08/2023 regarding some subject/matter, there I met a person through whom he told his name as Vivek Gautam, resident of Rohini Delhi, whose mobile number: 95521-xxxx. He told me that he is the Bank Manager of City Bank Rohini, Delhi and said that I also provide loans to people from my bank. If you also need a loan, then please tell me, I will give you a loan from my own bank and that too, at low interest rates. 3. This is that after some time a WhatsApp message came on my phone from Vivek Gautam, resident of Rohini Delhi that I want to sell a vehicle which is of Punjab number whose vehicle number is: PB13BA2360 and I want to sell this vehicle as soon as possible. Yes, I will sell this car for only five lakhs and I will also give you some commission on it, on which I have already said that I will soon call you and tell you about it. 4. After a few days, I again got a call from Vivek Gautam resident of Rohini Delhi that you have not yet told me about the vehicle. On which I said that your car is not worth that much money, at most your car is worth around three lakhs and not more than that. If someone else buys this car from you for more than this, then you give this car to him, on which he said that it is your job to buy and sell the car, you only take this car and you give this car to me. Give only four lakhs. 5. This is that when Vivek Gautam resident of Rohini Delhi said this, I refused to buy his car and said that I do not have enough money to buy your car. On which Vivek Gautam resident Rohini Delhi said that there is no question of money, I am a bank manager and I will give you a bank loan of 8-10 lakhs and you take my car, on which I said that I do not have any property there on which I can take a loan. 6. This is that after I said this, Vivek Gautam resident of Rohini Delhi said that you have your own shop, you should bring the photo of your shop and GST Number, copy of Aadhar Card, Pan Card and you will get the copy of your loan. You will get the amount, but before taking the loan, you will have to give 2 blank cheques of your bank, which are without signature and are yours, as a security to the loan giving bank. 7. This is Vivek Gautam on being asked by resident of Rohini Delhi, I gave him all the documents which he had asked for in the name of loan and said that to pass your loan of Rs. 8 lakh, it will cost me around Rs.2 lakh fifty thousand and you will have to pay Rs. You will have to pay now, on which I gave him two lakh rupees in cash to get his loan passed and said that I will give the rest later, on which he said that if you want the rest later, you can contact my bank or call. Make the

number online. 8. This is that after a few days Vivek Gautam resident of Rohini Delhi calls again and says that you have not paid the outstanding money due to which your loan is pending on which I will transfer some money to him online in his bank or on his phone number. Through which I paid Rs.38,000/- which was given from my own account. 9. This is that after I did not receive the loan amount for some time, I contacted it and through this I told the applicant that I will have to pay more money, on which I the applicant got suspicious about this and I informed about this. I lodged a complaint regarding this on CYBER PORTAL whose complaint number is:-21310230035150, a copy of the slip is also attached. 10 Finally, I request you to take legal action as soon as possible against the fraud committed by Vivek Gautam resident of Rohini Delhi in the name of loan against me and I get all my money back. It will be your utmost pleasure. Thank you. Date 17/01/2024 Sd/ Vikas Applicant Vikas S/o Shri Rajender Sharma Resident Ajmer Basti Bhiwani Road Jind Mobile No. 98025-xxxxx." From the preliminary enquiry conducted by Incharge, District Investigation Cell, Jind and legal opinion from the Assistant District Attorney (P) office of the Superintendent of Police, Jind, a prima-facie offence u/s 406, 420 IPC was found to be committed which requires thorough investigation of the case. Upon which the aforementioned case FIR No.304 dated 27.06.2024 under section 406/420 IPC, was registered at Police Station City Jind."

4. Petitioner's counsel has argued that there has been an inordinate and unexplained delay of almost 8-9 months in registration of the present FIR as the first complaint was filed with cyber cell on 20.10.2023 and the present FIR came to be registered on 27.06.2024. He submits that the present Police officials of the Haryana Police hold enmity towards the present petitioner because of the enmity that one of their official namely HC Anup Singh (complainant in earlier FIR 107/2021) holds with the petitioner. That the said Anup Singh was once friend of the petitioner and because of certain monetary dispute between both the said Anup Singh started holding grudges with the petitioner which later resulted in the said Anup Singh filing FIR based on fake/false and fabricated facts against the petitioner. He further submits that the petitioner was also illegally arrested in the said FIR for which the petitioner after being granted regular bail by the Hon'ble Supreme Court of India filed contempt petition against the Haryana Police Officials where the Haryana Police officials have not filed any reply despite several opportunities. It is pertinent to mention that the said State of Haryana has filed a detailed status report in the present petition showcasing the legality of the said arrest but failed to file any reply before the Hon'ble Delhi High Court the said

contempt. That the evidence showcasing the said illegal arrest. He further submits that the present FIR has been filed only to settle the grudges after again arresting the present petitioner as he has filed several cases against the said Anup Singh and other Haryana Police Officers. Details of those cases are:

- i. Contempt petition for illegal arrest;
- ii. Civil suit for recovery against said Anup Singh
- iii. Complaint against the said Anup Singh before State Police Complaint Authority where an investigation for offence of cheating & extortion has been ordered against said Anup Singh.

5. 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 his family.

6. The State's counsel opposes bail and refers to the status report.

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

"5. That the assertion of the petitioner that he is serving as Branch Manager in a private Bank is concerned, it is submitted that the petitioner has not disclosed the name of bank where he is posted as branch Manager. However, during the course of investigation of the given below case, it has been surfaced that the petitioner is not working in any bank. False and frivolous assertion of serving as Branch Manager in private bank has been made by the petitioner in this regard. The petitioner-accused Vivek Kumar Gautam son of Sh. Bhanu Partap Gautam, is permanent resident of Karuna, Police Office Malahi, District Sitamadhi (Bihar) and he is committing crimes on the temporary residential addresses of Delhi. The investigation of the case is still undergoing.

11. That during the course of investigation of the case, the petitioner-accused was joined in the investigation of the case twice, but he has not cooperated the Investigating Officer in the investigation of the case and withheld vital information pertaining to present case. During the course of investigation, it has been surfaced that the petitioner has introduced himself as Branch Manager in City Bank Rohini, Delhi and in order to cheat the complainant, took Rs.2,38,000/- (Rs.2,00,000/- cash and Rs.38,000/- online different transactions-Annexure R-1), two blank cheques, copy of Aadhar card and PAN card, on the pretext of sanctioning him loan

amounting to Rs.8 Lacs and cheated the complainant.”

8. A perusal of the bail petition and the documents attached prima facie points towards the petitioner’s involvement and does not make out a case for bail. The impact of crime would also not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.
9. There is another reason that disentitles the petitioner from bail, and that is his criminal antecedents. Evil people are always on the hunt to grab wealth from the gullible. The allegations involve duping investors by deception, cheating, and fraud. The sly way the petitioner and his accomplices conned, tricked, deceived, swindled, and defrauded the gullible complainant points towards the dangerous trend of the revival of thuggee, and if not sternly dealt with now, it might upsurge, revisiting history.
10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
11. **Petition dismissed.** Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

29.11.2024
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.