

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50043-2024
Reserved on: 02.12.2024
Pronounced on: 12.12.2024

Rashid Khan ...Petitioner

Versus

State of Haryana and another ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Gurpreet Kaur, Advocate
for the petitioner. (Legal Aid Counsel)

Mr. Rajat Gautam, Addl. A.G. Haryana.

Mr. V.K. Pujara, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
504	26.10.2023	Parao, District Ambala	406, 420, 506 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court by filing second petition under Section 438 CrPC seeking anticipatory bail.
2. Since, the first petition was dismissed with liberty to petitioner to file fresh disclosing criminal antecedents as such, second petition is maintainable.
3. Per paragraph 17 of the bail application and the reply dated 29.10.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Year	Offenses	Police Station
1.	381	2021	406, 420 IPC	Fatehpur City, District Saharnpur
2.	382	2021	406, 420, 467, 468, 471 IPC	Fatehpur City, District Saharnpur
3.	02	2024	406, 420, 467, 468, 471 IPC	Fatehpur City, District Saharnpur
4.	38	2022	406, 420, 506 IPC	Civil Lines, Muzaffarnagar

4. The facts and allegations are being taken from para No. 3 of the reply filed by the State, which reads as follows:

"3. That the present case bearing FIR No. 504 dt. 26.10.2023 u/s 406, 420, 506 of IPC was registered on the complaint of Rajesh Kumar Gautam son of Godhraj R/o House No. A/106, Rail Vihar Ambala Cantt District Ambala with the following contents that "To, The Superintendent of Police, Ambala, It is submitted that I, Rajesh Kumar Gautam, son of Late Godhraj I am a resident of House No. A/106, Bihar, Ambala Cantt. I has a government job in Railway Department, I have two daughters and a son (three children). Two years ago, accused Rajesh Kumar son of Mr. Soran Singh, resident of Mohalla Kajimal, Sultanpur Dehat, Chilkana District Saharanpur, who is known to me, came and told that the accused would get a job for my daughter at the post of clerk in the Income Tax Department. That I told to the accused that it is not so easy to get a job. That he kept telling to me continuously and after a month, the accused took two Lakh rupees from me under the pretext of getting a job for my daughter. A day later, above Rajesh Kumar took me to Lucknow in a guest house. Where he took me and introduced a person namely Rashid S/o Mohd. Natthu Khan, House No.42 Kailash Kunj Faizabad Road Lucknow where Md. Rashid assured me that they would arrange a job for my daughter as a clerk in the Income Tax Department and he also told to me that apart from this, if any other child is interested in getting a job, then they would get him/her a job too, on which I came under the influence of above two persons, I talked about getting jobs for my daughter Bhavna and my nephew Devendra Singh and the my brother-in-law's son Harsh Gautam, on which above both persons said that they would get jobs for all the three children. For which Rs 30 lakh will have to be paid. That the complainant has Come under the influence of accused persons and that me and my nephew Devendra and my brother-in-law's son namely Harsh, Transferred Rs. 50,000 and Rs. 1,00,000 online to accused Rashid on 5 February 2021. On 12.02.2021, Rs 49 thousands and Rs 49500 were given, after that Rs 49500 were given online and Rs 3 lakh fifty thousand were given by cheque. On 13th February 2021, transferred Rs.48,000/-, on 15th February 2021, Transferred Rs. 4000/- online, On 16th February 2021 Transferred Rs.1000/- On 17.02.2021, Rs. 1,49,000/- was transferred online and Rs. 1,50,000 was given through cheque. On 22 February 2021, Rs.4,50,000 deposited in account no. "0277102000006460" which belongs to Mohd Rashid and transferred Rs 50,000/- online on

22 February 2021. On 5 March 2021 Transferred Rs 70000/- online. On March 17, 2021 that the complainant paid Rs 2,00,000/- and then again Rs 200000/- paid to the accused Rashid. Rs 150000/-, Deposited in bank account of Rashid. But even after paying the above money, I talked to Rashid on phone and he kept me running till 6 months at Income Tax Department at Delhi, after that both the persons switched off their phones, after which we became suspicious and enquired about both of persons, on which we came to know that accused Rashid is in Muzaffar Nagar jail in any case of defrauding Rs. 35 lakh in the name of getting a job from someone else. After coming to know about this, we went to Muzaffar Nagar Jail to meet Mohd. Rashid and there we met Md. Rashid. After meeting Rashid, we demanded back ours Rs 24 lakh, Rashid stated that he has Rs 99 lakh in his account, and he will return the money as soon as he comes out from the jail. I waited for the accused to come out of jail. He came out of jail in the month of January 2023. Then I contacted Md. Rashid over phone and Md. Rashid kept telling me that he will soon return our money around Rs 24 lakh. When I asked Rashid on 24.08.2023 for my money, then Md. Rashid started abusing me on the phone and said that he would not get any of your children employed nor he would return your money. He threatened to me over call that in case you would again call to take your money or make any kind of complaint against me in the police, he would kill the complainant and his family. I have relations with the criminals. Therefore, it is requested that approximately Rs 24 lakh should be returned from the above mentioned persons and strict legal action should be taken against the accused. A photocopy of the letter given by accused Rashid regarding the job and the details of money transferred online is attached."

4. Counsel for the petitioner has argued on the following point:

"That the petitioner has filed a complaint to the D.R.M. Railway Department, Ambala Cantt. dated 29.01.2021 against the complainant Rajesh Kumar regarding the cheating and misappropriation of money of Rs. 18,00,000/- with the petitioner but till date no action has been taken on the complaint of petitioner. The copy of complaint filed by the complainant is attached with the petition as Annexure P-3."

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 their family.

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

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

"4. That the present complaint was received vide complaint No. 5083-PW dated 04.09.2023 and the same was sent to SHO, PS Parao for inquiry. During inquiry of complaint, the documents attached by the complainant with the complaint has been examined and statement of complainant was recorded and since, there was documentary evidence on the file, hence, the inquiry officer prepared his report suggesting that the detailed investigation is required in this case after registration of case against the accused persons Mohd. Rashid Khan and Rajesh Kumar and the report was sent to the office of Superintendent of Police, Ambala for necessary directions. Thereafter, by the orders of The Superintendent of Police, Ambala, the present case was registered and investigation of the case has been carried out by local police. The copy of statement submitted by complainant with the complaint of Online transfer of amount total Rs. 21,20,000/- is annexed as Annexure R-1.

5. That during Investigation of case, on 05.11.2023, the complainant was joined in the Investigation and the complainant Rajesh Gautam has produced the copies of offer of appointment letters in the name of Bhawana Rani Gautam, Davinder Singh and Harsh Gautam which were taken in possession by preparing recovery memo duly attested by the witnesses. The copies of offer of appointment letters are annexed as Annexure R-2 to Annexure R-4. The IO tried to apprehend the accused persons namely Mohd. Rashid Khan and Rajesh Kumar(accused) and applied for CDR/LOCATION of accused-petitioner but none of accused could be arrested as they are absconding.

6. That during investigation, on 07.03.2024, the investigating officer reached in State Bank of India branch, Nickelson Road, Ambala Cantt and moved an application for collection of account statement of account of complainant bearing number xxxxxx34582 w.e.f. 05.02.2021 to 18.03.2021 and the same was taken in possession by preparing recovery memo duly attested by the witnesses. On 28.03.2024, the investigating officer reached at the house of accused-petitioner but the accused-petitioner was not found present at his house.

7. That on 15.04.2024, the investigating officer reached in State Bank of India branch, Nickelson Road, Ambala Cantt and moved an application for collection of account statement of account of relative of complainant bearing number

xxxxxx04144 w.e.f. 01.01.2021 to 31.03.2021 and the same was taken in possession by preparing recovery memo duly attested by the witnesses.

8. That thereafter, on the same day, IO reached in IDBI branch, Nickelson Road, Ambala Cantt and moved an application for collection of account statement of account of accused-petitioner Md. Rashid bearing number xxxxxxx0006460 w.e.f. 01.01.2021 to 31.03.2021 and the same was taken in possession by preparing recovery memo duly attested by the witnesses. The copy of Bank Account statement of bank account bearing number xxxxxxx0006460 of accused-petitioner is annexed as Annexure R-5.

9. That on examination of account statement of account bearing number xxxxxxx00006460 of accused-petitioner, it has been found that on 14.01.2021 an amount of Rs. 1,50,000/-, on 15.01.2021 an amount of Rs. 45,000/-, on 15.01.2021 an amount of Rs. 1,00,000/-, on 05.02.2021 an amount of Rs. 2,00,000/-, on 12.02.2021 an amount of Rs. 4,98,000/-, on 13.02.2021 an amount of Rs. 48,000/-, on 22.02.2021 an amount of Rs. 4,50,000/-, on 17.03.2021 an amount of Rs. 2,00,000/- and on 18.03.2021 an amount of Rs. 1,50,000/- has been found transferred in the account of accused-petitioner Md. Rashid from the account of complainant Rajesh Gautam and his relatives, which clearly establish that the accused-petitioner has received the amount of about Rs. 24,00,000/- from the complainant by alluring him on the pretext of providing jobs in Govt. departments, hence, the accused-petitioner has cheated the complainant and to elicit the truth in this case, the custodial interrogation of the accused- petitioner is very much necessary in this case.”

8. State counsel submits that no such complaint has been received by the Railway Department and its a fake allegation. State counsel denies such complaint and states that all cover up to get bail and petitioner is mis-leading this Court. State counsel further submits that they seek custodial interrogation of the petitioner for eliciting the truth in this case and to know about how and from where he has got prepared false and forged appointment letters issued in the name of Bhawana, Davinder and Harsh Gautam and for recovery of cheated amount about Rs. 2,40,000/- from his possession.

9. Although the complainant is equally to blame for bypassing the normal recruitment process and, through cheating and illegal means, wanting a job for money; However, it would not give any advantage to a thug who perpetrated and instigated such illicit hopes. The sly way the petitioner conned the complainant points out the dangerous trend of the revival of thuggee by revisiting the history. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

10. There is sufficient prima facie evidence in nature of bank transactions and petitioner did not offer any explanation.

11. 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 anticipatory bail. The impact of crime would also not justify anticipatory bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. **Petition dismissed.** Interim orders are recalled with immediate effect. All pending applications, if any, are disposed of. In parting, concerned officer of the Legal Services Authority is directed to make necessary payment to legal aid counsel in accordance with law without any delay.

(ANOOP CHITKARA)
JUDGE

12.12.2024
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.