

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P No. 533 of 2015

Sheetal Bhawani Gupta @ Vikram Gupta, S/o. Shri Bramhadev Prasadram,
Aged about 26 years, R/o. Rajvadi, Jhariya, Civil and Revenue District-
Dhanbad (Jharkhand)

---- Petitioner

Versus

State of Chhattisgarh, Through: District Magistrate/Station House Officer,
Police Station- Balco, District- Korba, Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Dharmesh Shrivastava, Advocate
For Respondent/State	:	Ms. Farah Minhaz, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07/07/2015

1. Challenge in this petition is to the order dated 23.06.2015, passed in Criminal Revision No.35/2015, by the 1st Additional Sessions Judge, Korba.
2. Learned counsel for the petitioner submits that the petitioner was arrested on 16.05.2015, without following the mandate of Section 41 (1) (b) (ii) of Cr.P.C., the petitioner has been kept under the custody, therefore, he may be released on personal bond.
3. The State counsel opposes the same and would submit that the

petitioner when was arrested on 16.05.2015, he was immediately produced before the Magistrate and thereafter, after perusal of the case diary having satisfied that further investigation is required, the petitioner was sent on remand, consequently, no illegality has been committed. It is further submitted that the case would fall under Section 41 (1) (b) (ii) for proper investigation of offence.

4. I have gone through the order dated 23.06.2015, passed by the Court below. Perusal of the order and the document, which is enclosed would reflect that the Court has recorded that according to the case diary on 18.04.2015, a report was made by complainant, Ravindra Nath Thakur that he was received a called on his mobile and it was informed that his ATM is closed and therefore, in order to start the same, ATM number was asked for. The complainant had disclosed his ATM number and subsequently having checked, Rs.46,789/- was shown to be withdrawn from his account. A report was made to the Superintendent of Police, Korba, wherein Crime No.88/2015, under Section 420, 34 I.P.C. and Section 66 (c) of I.T. Act was registered. Subsequently, the investigation was made. The order shows, as per the case diary, investigation was made and on the basis of memorandum statement, a mobile Micromax Model No.P-240 was seized from the petitioner and consequently, he was arrested on 16.05.2015 at 16.20 o'clock. After the arrest, he was produced before the J.M.F.C., Korba and remand was obtained by the police. Perusal of the remand form, which is enclosed herein, shows that police has written the entire facts in this remand form that one Ravindra Nath Thakur was cheated and Rs.46,789/- was

withdrawn from his account and on being complaint made, Cyber Cell having investigated the matter, it was found that the petitioner herein along-with his friend, Abhisek Gupta, has withdrawn the amount from State Bank of India from account of the complainant. Having found the prima-facie proof of commission of offence, the petitioner was arrested and since other persons, who was involved in the offence was to be arrested and further in order to complete the investigation time was required, therefore, on the basis of such submission, remand was sought for.

5. The learned Court below after having perused the case diary and the documents accepted the remand and the petitioner was sent to remand till 30.05.2015. While passing the remand order, the Court has recorded the satisfaction that since the proceedings can not be culminated within specified period of time as prescribed under Section 57 of the Cr.P.C., consequently remand was allowed till 30.05.2015.
6. Perusal of the remand form and the also the order of the Judicial Magistrate would show that after arrest, the petitioner was produced before the Magistrate.
7. Reading of Section 41 (1) (b) (ii)(b) of Cr.P.C. contemplates that police officer is satisfied that such arrest is necessary for proper investigation of the offence and thereafter he made arrest. The same conditions also stands satisfied by the remand form which is filed by the police, which purports that to make further investigation, the remand was necessary.

8. In the circumstances, no illegality is shown to be committed by the prosecution. In a result I do not find any merit in this case to invoke the jurisdiction under Section 482 of the Code of Criminal Procedure.
9. In a consequence, the petition has no merit and it is dismissed accordingly.

Sd/-
(Goutam Bhaduri)
Judge

Balram