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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-No. 42936 of 2018
Decided on: September 28, 2018

Sushil @ Abhi Mittan

.....Petitioner

Versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Naveen Kumar Jaglan, Advocate
for the petitioners.

Rajbir Sehrawat, J. (Oral)

This is an application seeking anticipatory bail in FIR No. 934 dated 17.9.2018 under Section 67-A of Information and Technology Act, 2000 registered at Police Station Model Town, District Panipat.

Learned counsel for the petitioner submits that name of the petitioner has cropped only on the basis of suspicion expressed by the girl qua change of I.D and password of her facebook account by the petitioner.

Admittedly, as per the allegations, the petitioner had been in regular chats with the said girl on facebook. The allegation also is that the petitioner had taken I.D.and password of the girl. Thereafter, although it has come in the FIR that the said girl had changed the I.D.and password, however, even she was not able to open the same with the changed

password and I.D. This shows the external control on her I.D. and password. In the meantime, nude photographs of the girl had gone viral on the internet. As per allegations, even on the other social media account, i.e. instagram the petitioner was in touch with the girl. She had sought I.D. and password from the petitioner after photographs had gone viral. However, the petitioner had expressed his innocence by saying that he has not changed the I.D. and password.

The allegations levelled in the petition are serious. As per the allegations it is only and only the petitioner who was having access to the I.D. and password of the said girl. The allegation, whether it is the petitioner who had played mischief of making viral the nude photographs, is yet to be decyphered by the police. For that purpose the police would require answers to some questions relating to digital codes and digital access. The answers to those questions would have to be extracted from the petitioner.

Needless to say that the consideration for exercising powers under Section 438 Cr.P.C is whether it would be justified to prevent the police from conducting a full fledged investigation by taking the accused into custody. The allegations, per se, would be relevant only to assess the scope of investigation to be conducted by police. It is the scope of investigation which is to be considered by the Court. The Hon'ble Supreme Court in several judgments has held that interrogation of the accused is quantitatively and qualitatively different when he is under the protection of interim bail order of the Court than the interrogation when he is in custody.

Since the allegations involved in the FIR are such, which only the petitioner can answer. For seeking appropriate answers from the

petitioner police would be required to delve deep into the social media accounts of the petitioner. This is not possible unless the petitioner is taken into custody by the police.

In view of the above, this Court finds no merit in the present petition. The same is accordingly, dismissed.

September 28, 2018
archana

[RAJBIR SEHRAWAT]
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>