IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-22110 of 2019
Date of Decision: 30.10.2019

S. Nizam Raja

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Rahul Sharma-I, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Parminder Singh Rai, Advocate
for the complainant.
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HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.0025 dated 10.03.2018 under Sections 354-D, 384, 420 IPC and Section 67 of the Information Technology Act, 2000 registered at Women Police Station Gurugram.

The aforesaid FIR was registered at the behest of the complainant Shvani Aggarwal, who is working in Royal Bank of Scotland, Cyber City, Gurugram as Vice President. As per the FIR, the complainant had received a friend request on Facebook in the month of January, 2018 from Abdel Nasser, which was accepted by her. Thereafter, she started talking to Abdel Nasser through the Messenger, where Abdel Nasser asked her to talk through Whatsapp. Then they started chatting on Whatsapp. Abdel Nasser asked the complainant for USD 2000, which was made available to him by the complainant through PayPal. This money was returned by him after 3-4 days. In the month of February, 2018, Abdel Nasser cheated the complainant and got transferred Rs.20,00,000/- in Bank of India Account No.800910100011756, IFSC Code BKID0008009 and started blackmailing the complainant for more money. He sent some obscene pictures of the complainant to her on Whatsapp, despite the fact that these pictures were never shared by her with the petitioner. He had created these obscene pictures of the complainant and blackmailed her for extorting money.

Learned counsel for the petitioner has submitted that the petitioner had given a sum of Rs.3,00,000/- to S. Kalaiwani, who is resident of Malaysia and known to the petitioner for the last about 6-7 years being a family friend. S. Kalaiwani had visited India in the year 2017 and during the month of October, 2017, she had requested the petitioner for lending her a sum of Rs.3,00,000/- for the expenses of her sister's wedding, with a promise that she will return this amount on her return to Malaysia. After returning to Malaysia, S. Kalaiwani in response to the request made by the petitioner for return of money, asked his bank details, which were duly provided to her by the petitioner. S. Kalaiwani informed the petitioner that one Ubgo Uche Sunday, who is a citizen of Nigeria, owes her a sum of Rs.5,00,000/- and he would get this amount deposited in the account of the petitioner through a friend. Thereafter, a total sum of Rs.18,40,000/- was deposited in the account of the petitioner in the month of February, 2018 at various intervals. Upon this, S. Kalaiwani contacted the petitioner and requested him to withdraw the amount after deducting the amount of Rs.3,00,000/- owed by her to the petitioner and to hand over the remaining amount to one Siya, who is a friend of S. Kalaiwani and was visiting India at that time. The petitioner after deducting Rs.3,00,000/-, returned the remaining amount of Rs.15,40,000/- to Siya, who in turn, handed over the entire amount to S. Kalaiwani.

Learned counsel for the petitioner has argued that the petitioner has acted as per the instructions of S. Kalaiwani and she has even signed a Statutory Declaration dated 27.11.2018 (Annexure P-2), wherein she has stated that the petitioner, who is an Indian citizen and lives in Chennai, is her friend. They have acquaintance with each other for the last 5-6 years. She had visited India in 2017 and at that time, she was in need of money. The petitioner lent her a sum of Rs.3,00,000/-, which was required for shopping for the wedding of her sister. The petitioner also paid the bills for the printing of wedding and engagement cards in Chennai as well as its parcel charges. Ugbo Uche Sunday had informed S. Kalaiwani that an amount of Rs.18,00,000/- was deposited in the account of the petitioner in parts from 06.02.2018 to 27.02.2018. The petitioner after deducting an amount of Rs.3,00,000/- had withdrawn the remaining 15 lacs and handed over the same to Siya, who returned the same to S. Kalaiwani. Learned counsel has further argued that the petitioner has been implicated in the case only for the reason that the money has come to his bank account and this transaction is under scrutiny. Mere mentioning of the bank account of the petitioner in the FIR, does not indicate any role or participation of the petitioner in the transaction under scrutiny.

Learned State counsel as well as learned counsel for the complainant has opposed the bail application of the petitioner on the ground that the allegations against the petitioner are serious and the entire scam needs to be unearthed. The money involved in the case is yet to be recovered. In case the petitioner is enlarged on bail, there is possibility that he may prevail upon the witnesses.

I have heard learned counsel for the parties.

As per the FIR, a sum of Rs.20,00,000/- has been transferred into the account of the petitioner fraudulently. The petitioner himself admits the receipt of a sum of Rs.18,40,000/- in his account and out of this amount, after deducting Rs.3,00,000/-, he has handed over a sum of Rs.15,00,000/- to one Siya who transferred it to S. Kalaiwani in Malaysia. Thus, a huge sum of money has been transferred from abroad and has come in the account of the petitioner. There are other accused in the case, which included some foreign Nationals, with whom the petitioner has made money transactions. Since the allegations against the petitioner are serious in nature, which need to be thoroughly investigated, the prayer of the petitioner for grant of anticipatory bail, cannot be accepted.

Accordingly, the present petition is dismissed.

October 30, 2019 **(HARI PAL VERMA)**
AK **JUDGE**

Whether speaking / reasoned? Yes / No
Whether reportable? Yes / No