IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22902-2020
Date of decision: 17.08.2020

Rajnish Jain **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Inderjeet Singh, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. *(Oral)*

Prayer in this petition, filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in FIR No. 2 dated 09.06.2018, registered under Sections 420 and 406 of the IPC read with Section 66 of the Information Technology Act, 2000 at Police Station State Cyber Crime, Phase 4, S.A.S. Nagar.

Learned counsel for the petitioner submits that the present FIR is registered at the instance of Sumeet Sidhu, Director, Sahib Trade Links Pvt. Ltd., against the two Directors of M/s Appsdaily Pvt. Ltd., namely Ajay Menon and Arun Menon, in which the petitioner was nominated with the allegations that when complainant invested Rs. 3.25 crore with Appsdaily Pvt. Ltd., the company transferred Rs. 90 Lakh to the company of the petitioner for providing services i.e. insurance plan, damage protection plan etc. for mobile phones, which the petitioner failed to provide and, therefore, the petitioner was also nominated in the FIR.

Learned counsel further argues that in fact there was no such agreement between the petitioner and the complainant as the main allegations are against M/s Appsdaily Pvt. Ltd. and its aforesaid two directors and the agreement of the petitioner was with aforesaid two accused persons/directors and there was no direct dealing between the petitioner and complainant.

Learned counsel for the petitioner relies upon various statements of account to submit that there was an agreement of the petitioner with M/s Appsdaily Pvt. Ltd. on 21.09.2016 and similarly there was a separate agreement of the complainant with M/s Appsdaily Pvt. Ltd. It is further further submitted that the amount of Rs. 3.25 crore was transferred by the complainant in the year 2016 and out of amount of Rs. 90 Lakh, which was transferred by M/s Appsdaily Pvt. Ltd. in the account of petitioner on 27.09.2016 and 29.09.2016, an amount of Rs. 50 Lakh was transferred in favour of one Sadhna on 06.08.2016, which was prior in time.

Learned counsel for the petitioner further submits that petitioner has falsely been implicated in this case and he was not able to travel due to Covid-19 situation in the country in pursuance to notice issued under Section 41 of Cr.P.C.

Learned counsel further submits that initially M/s Appsdaily Pvt. Ltd. was having a good business and there were many transactions between the petitioner and this company and an amount of Rs. 90 Lakh was received by the petitioner from this company, however, the same was much prior to agreement between the complainant and this company. Similarly, the petitioner received an amount of Rs. 7.25 crore from this company for the services rendered by his company and the same was much prior to existence of the agreement between the complainant and M/s Appsdaily Pvt. Ltd.

Learned counsel for the petitioner further submits that M/s Appsdaily Pvt. Ltd. is not the only company to which the petitioner is providing services and similar services were provided by the petitioner to other companies as well.

Learned counsel further argues that both the aforesaid co-accused, who are Directors of M/s Appsdaily Pvt. Ltd., have already been granted concession of regular bail by this Court, vide orders dated 30.04.2019 and 04.10.2019 passed in CRM-M Nos. 42194 & 42014 of 2019, respectively.

In reply, learned State counsel has opposed the bail on the ground that complainant was allured by M/s Appsdaily Pvt. Ltd. by entering into an agreement to become National Distributor for sale of insurance plan, extended warranty and Damage Protection Plans for mobile phones which could be purchased by way of online internet mobile application through Appsdaily Wallet recharge points. The complainant became the Distributor and invested Rs. 3.25 crore for the purchase of Wallet points but he was cheated by the M/s Appsdaily Pvt. Ltd. as well as the petitioner as neither they provided services as promised nor transferred the Wallet points of the equivalent amount paid to them.

Learned State counsel further submits that during investigation, it has come that the Directors of M/s Appsdaily Pvt. Ltd., in conspiracy with petitioner Rajnish Jain, have usurped the amount of Rs. 2.20 crore of the complainant as an amount of Rs. 90 Lakh was transferred to the firm of the petitioner namely M/s Shri Krishna Traders.

Learned State counsel further submits that the petitioner has not disputed that his firm M/s Shri Krishna Traders received Rs. 90 Lakh and further submits that corresponding services were not provided by the petitioner.

Learned State counsel further submits that anticipatory bail application filed by aforesaid co-accused, namely Ajay Menon and Arun Menon, was dismissed upto Hon'ble Supreme Court and thereafter, they were arrested and granted concession of regular bail by this Court and during the custodial investigation, evidence against the petitioner has also come on record.

After hearing learned counsel for the parties, considering the serious allegations against the petitioner and also considering the fact that despite receiving an amount of Rs. 90 Lakh in the account of his firm, no corresponding services were provided as promised to the complainant and also in view of the fact that there are serious allegations of cheating and misappropriation of a huge amount against the accused persons, this Court finds no ground to grant concession of anticipatory bail to the petitioner.

Petition stands dismissed.

17.08.2020 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*