**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-3559-2020
Date of decision: 12.08.2021**

**(I)
Ashish and another**

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CRM-M-10170-2020 (O&M)

**(II)
Indu Bansal**

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: - HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Akshay Kumar Dahiya, Advocate,
for the petitioners in CRM-M-3559-2020.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Ajey Bishnoi, Advocate,
for respondent No.2-complainant in CRM-M-3559-2020
and for the petitioner in CRM-M-10170-2020.

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(Through Video Conferencing)

<u>JASGURPREET SINGH PURI, J.</u>

These two petitions are being taken up for final disposal together since both the petitions pertain to the same FIR i.e. FIR N0.001 dated 02.01.2020.

CRM-M-3559-2020 has been filed by two persons namely,

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Ashish and Mukesh Kumar for grant of anticipatory bail under Section 438 Cr.P.C whereas CRM-M-10170-2020 has been filed by Indu Bansal (complainant in the FIR) seeking a direction for proper investigation and arrest of the accused in the aforementioned FIR.

The facts which have emanated from the present petition are that an FIR was lodged by the complainant Indu Bansal who is also respondent No.2 in CRM-M-3559-2020 by alleging that Mukesh Kumar and Ashish son of Mukesh Kumar who are father and son have cheated the husband of the complainant and have also fabricated false bills. It is stated in the FIR that the complainant is a journalist and works through electronic media and is a promoter of Bharat Media Group and her husband is also a journalist and works in the above media channel alongwith her. The petitioner No.2- Mukesh Kumar approached her husband and said that his son Ashish (Petitioner No.1) is doing B.E from S.R.M University, Chennai and asked him to employ him on part time basis and the said incident is of March, 2018 and at his instance Ashish was employed by the husband of the complainant. Thereafter, the husband of the complainant entrusted him with a job of developing an app in the name of Bharat T.V. upon which Ashish said that for the development of this app, a sum of Rs. 2,20,000/- would have to be incurred for installing a software and Rs. 30,000/- would be his labour. Thus a total sum of Rs. 2,50,000/- would have to be incurred and her husband agreed to this and gave him a sum of Rs.2,20,000/- and he developed the app and commissioned the same on 18.06.2018. Her husband asked for the bills in this regard but Ashish started dilly-dallying and later

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on Ashish said that the app was giving problems and for that purpose, software is to be installed and there would be an expenditure of Rs. 1,40,000/-, which he has taken on the pretext of installing the software from May, 2018 to May, 2019. Thereafter, Ashish again said that he would install S.S.L. Secure in the app, so that no one could hack the app and for this purpose, he demanded a sum of Rs. 4,20,000/- from her husband. Although her husband demanded the transfer of money online but Ashish insisted on giving money in cash and, therefore, the husband of the complainant gave him a sum of Rs. 4,20,000/- in cash. Thereafter another sum of Rs. 1,75,000/- was demanded and the husband of the complainant said that he has got no money. Thereafter, the husband of the complainant took a loan of Rs. 7,00,000/- from Mukesh who is father of Ashish at the interest of 2%. In January, 2019 during the Kumbh Fair at Allahabad, a case of fraud of India T.V had come to light in which four persons were nabbed. Out of them, two accused were the old friends of Ashish, who are presently on bail. One of them informed complainant that Ashish has usurped money from him in fraudulent manner and he has not installed any software in the app and bogus bills have been given to her and on verification it was found that the bills were bogus. In this way, a big fraud has been committed upon the husband of the complainant and even threats were extended that her husband would be eliminated and that the complainant was in fear that the petitioners may not destroy the app software and cause them loss. One laptop was also in the custody of the aforesaid Ashish and he is not returning back to her.

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CRM-M-3559-2020

The learned counsel for the petitioners has prayed for the grant of anticipatory bail to both the petitioners on the ground that the dispute was pertaining to money transaction and in fact it was of a civil nature and the petitioners were falsely implicated in the present case. He submitted that the petitioner No.1- Ashish has a GST number which is at Annexure P-2 and since there was money transaction between the petitioners and the husband of the complainant, which is evident from Annexure P-3 that even a loan was taken by the husband of the complainant for a sum of Rs. 7,00,000/- from Mukesh Kumar on interest at the rate of 2%. The present FIR has been lodged only to settle the financial dispute. He further submitted that after the complaint was made by the complainant through the C.M. Window, Mini Secretariat, Sonipat vide Annexure P-5 the matter was being enquired into by the Deputy Superintendent of Police, Sonipat and it was found that it was a case of money transaction between the parties and, therefore, there was no requirement for taking any action on the complaint. The learned counsel further submitted that in pursuance of the orders passed by this Court on 03.02.2020, the petitioners have joined the investigation and they are cooperating with the investigation process and, therefore, has prayed for confirmation of the grant of anticipatory bail to the petitioners.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that a status report has been filed by way of an affidavit of Deputy Superintendent of Police, Head Quarter, Sonipat. The said status report is taken on record.

While referring to the status report, the learned State counsel

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submitted that as per Form GST REG-6 Registration Certificate of AH Technical Support, whose proprietor is one of the petitioners Ashish, the said firm has been registered only on 10.05.2019 and its validity commences from 15.06.2019. However, the bills have been issued by petitioner-Ashish pertaining to the year 2018. Issuance of bill for the year 2018 by petitioner-Ashish pertaining to AH Technical Support, which was validly registered w.e.f. 15.06.2019 itself shows that the bills issued by the petitioner-Ashish are false and fabricated documents. Furthermore, the case is still under investigation and custodial interrogation of the petitioners was required as they are required to be interrogated with regard to recovery of amount of Rs. 9,55,000/- and also they are to be interrogated with regard to the factum and manner of generation of forged bills. It is further submitted in the affidavit that the petitioners have joined the investigation in the present case but they have not cooperated with the investigating agency qua the above said aspects and they did not get the amount and laptop of the complainant recovered nor they disclosed the source of forged bills and they used to give evasive replies in this regard and as such, the petitioners are not entitled to the concession of the anticipatory bail.

The respondent No.2-complainant has also filed reply, which is also taken on record. Apart from giving their descriptions with regard to the dispute between the petitioners and the complainant-respondent No.2, it has been stated in para No.4 of the reply that in January, 2019 at Prayagraj (Allahabad) Kubh Mela four persons were arrested by the police for impersonating and posing as employees of India T.V News Channel and

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extorting money from saints and devotees for showing their interviews on India T.V news television channel. The petitioner No.1-Ashish's business partner accused Himanshu Kaushik and another person namely Sumit were the main accused in that case. Thereafter, an FIR No.0014 dated 08.01.2019, under Sections 120-B, 471, 469, 468, 419, 417 and 63 IPC and Section 66-D of Information Technology Act, Police Station Daryaganj Prayagraj, Uttar Pradesh was registered. The petitioner-Ashish is in partnership with the aforesaid accused Himanshu and are having the firm named as 'AH Technical Support'. It is further stated in the reply filed by the complainant that the petitioner-Ashish had even threatened the complainant and her husband on whatsapp by believing that it was the complainant who had uncovered and informed to the Original India TV News Channel with regard to the fraud and that is why the FIR was registered.

The learned counsel for the complainant also referred to Annexures P-11 and P-12 which she had filed in the other connected petition i.e. CRM-M-10170 of 2020 by stating that the petitioners were granted an interim bail by this Court on 03.02.2020 subject to compliance of conditions contained in Section 438 (2) of the Code of Criminal Procedure and just after few days i.e. 22.02.2020 the petitioner No.1- Ashish lodged a false FIR under Sections 323, 34 and 506 IPC at Police Station Civil Line, Sonipat against the complainant and her husband by alleging that when Ashish alongwith his friend Himanshu were in Sector-14 Market and that time the husband of the complainant alongwith 3-4 other men came and told them as to why they are filing complaints again and again and told them to

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finish up the matter and thereafter the husband of the complainant got angry and slapped him and his men started beating. As per the aforesaid FIR, the complainant and her husband picked up a rod lying on the side of the road and attacked Ashish on his right hand and then on his head. However, a false FIR which was lodged against the complainant and her husband was thoroughly enquired into by the police and it was found that the complainant and her husband were totally innocent and rather vide Annexure P-11 a Kalandra under Section 182 IPC was filed against the petitioner-Ashish in which it has been specifically observed that Ashish did this in order to pressurize the complainant for compromise in FIR No.01 dated 02.01.2020 (Present FIR) and that Ashish gave false information to the police and, therefore, he should be proceeded against under Section 182 IPC.

The learned counsel for the complainant further submitted that the petitioners do not deserve concession of anticipatory bail because after interim bail was granted to the petitioners in the present case on 03.02.2020, the petitioner-Ashish had lodged a false FIR with the police and it has been recorded by the police that it was only for the purpose of pressurizing the complainant to make a compromise and that is why Kalandra under Section 182 IPC was filed against the petitioner-Ashish. The learned counsel further submitted that apart from this instance, there are number of other instances when the petitioner-Ashish has misused the grant of bail and had been repeatedly threatening the complainant that she and her husband would be eliminated and would be implicated in false cases. He has

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therefore submitted that the petitioners are not entitled for grant of anticipatory bail in the facts and circumstances of the case.

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The present petition has been filed by the complainant-Indu Bansal seeking direction for proper investigation and arrest of the accused in FIR No.001 dated 02.01.2020.

A reply has been filed by the State through Superintendent of Police, Sonipat which is taken on record.

As per the affidavit, it has been stated that during investigation statements of witnesses have been recorded and relevant record has been collected. It is further stated in the affidavit that investigation of this case is still pending and a thorough, fair and impartial investigation is being conducted in the instant case and the same will be met to its logical end in accordance with law. No person has ever been prejudiced or benefited in any manner and investigating agency has been acting in accordance with law on the basis of evidence available and prevailing circumstances of the case and every possible effort is being made by the investigating agency to bring the truth on surface.

I have heard the learned counsel for the parties.

In CRM-M-3559-2020 which is a petition filed by the petitioners namely, Ashish and Mukesh Kumar for grant of anticipatory bail, there are direct allegations attributable to petitioner No.1-Ashish with regard to taking of money from the husband of the complainant for making an app and also by giving bills of the year 2018 which are alleged to be

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false as in the bills GST number has been mentioned but the company was registered in the year 2019. Furthermore, the allegations which have been attributable to petitioner No.2 who is father of petitioner No.1 are that he has approached the husband of the complainant and got his son Ashish employed in the company. So far as the petitioner No.2-Mukesh Kumar is concerned, the allegations are only vague in nature and, therefore, primarily allegations have been levelled against petitioner No.1 only. The arguments raised by the learned counsel for respondent No.2-complainant with regard to the fact that after the grant of interim bail by this Court on 03.02.2020, the petitioner No.1-Ashish had misused the concession of bail and has got registered a false FIR vide Annexure P-10 (in CRM-M-10170 of 2020) which was thoroughly enquired by the police and it was found vide Annexure P-11 that the FIR was lodged only for pressurizing the complainant and, therefore, the proceedings under Section 182 IPC was initiated does carry some weight and, therefore, the prayer of the petitioner deserves to be considered in the light of the aforesaid position. The learned counsel for the complainant has also submitted that on a number of other occasions as well, the petitioner No.1-Ashish had been threatening and misusing the concession of bail would also be a relevant factor for consideration of grant of bail to the petitioners. Although the matter pertains to the financial dispute between the parties but the same is also accompanied by two other factors. Firstly, the generation of bills by petitioner No.1 in the year 2018 but his company has been registered in the year 2019. Secondly, the allegations of the complainant with regard to

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threatening the complainant and her husband and implicating them in a false case would in the opinion of this Court disentitle the petitioner No.1-Ashish for grant of anticipatory bail. However, so far as the petitioner No.2 namely Mukesh Kumar is concerned, as per FIR he had allegedly introduced his son to the husband of the complainant and thereafter the remaining allegations seem to be vague and, therefore, in the facts and circumstances, he would be entitled for the grant of anticipatory bail.

Therefore, in view of totality of facts and circumstances of the present case, the present petitions are disposed of as under:-

1. CRM-M-10170-2020 seeking directions to properly investigate FIR No. 001 dated 02.01.2020, under Sections 406/420/467/468/471 IPC, registered at Police Station Sonipat City, Sonipat is hereby dismissed as no ground is made out for issuance of any direction in this regard.

2. In CRM-M-3559-2020, anticipatory bail qua the petitioner No.1-Ashish is hereby dismissed.

3. In CRM-M-3559-2020, anticipatory bail qua petitioner No.2- Mukesh Kumar is allowed. The order dated 03.02.2020 granting interim bail is hereby made absolute qua petitioner No.2-Mukesh Kumar.

12.08.2021 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

whether speaking : *Yes/no*
whether reportable : Yes/no

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