

102 (3 cases)

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

1. CRM-M-9794-2021

Date of Decision : 12.10.2021

Namdeep Sorab @ Naamdeep Sorab ...Petitioner
versus

State of Punjab ...Respondent

2. CRM-M-9926-2021

Gagandeep Kaur ...Petitioner
versus

State of Punjab ...Respondent

3. CRM-M-11130-2021

Kamesh Dubey ...Petitioner
versus

State of Punjab ...Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Inderjit Sharma, Advocate
for the petitioner in CRM-M-9794 of 2021.

Mr. A.D.S. Sukhija, Advocate
for the petitioner in CRM-M-9926 of 2021.

Mr. Sandeep Arora, Advocate
for the petitioner in CRM-M-11130-2021.

Ms. Monika Jalota, DAG, Punjab.

Mr. Gautam Dutt, Advocate and
Mr. Manish Verma, Advocate for the complainant.

AVNEESH JHINGAN, JUDGE (ORAL)

Due to COVID-19 situation, the Court is convened through video
conference.

In these three petitions filed by Namdeep Sorab @ Naamdeep

Sorab, Gagandeep Kaur and Kamesh Dubey seeking anticipatory bail, following order was passed on 09.08.2021:

“The matter is taken up for hearing through video conference due to COVID-19 situation.

These three petitions under Section 438 Cr.P.C. are filed by Namdeep Sorab @ Naamdeep Sorab, Gagandeep Kaur and Kamesh Dubey seeking anticipatory bail in FIR No. 13 dated 22.1.2021, under Sections 420 and 120 IPC and later on added Section 66-B of Information & Technology Act, 2000 (for short, 'the Act'), registered at Police Station Dugri, District Ludhiana.

The FIR is at the instance of Dev Garg, authorised representation of M/s Education Culture Private Ltd. The company is involved in a specialized job like providing solutions to various exams of international universities. The allegations are that Gagandeep Kaur, proprietor of M/s Edu Lark Global in connivance with ex-employees of the complainant-company had unauthorisedly taken the data of the complainant-company and the same was misutilised. Further allegations are that the ex-employees of the complainant-company were either now employees of Gagandeep Kaur or were working for her as freelancer. The data of more than 2600 files is said to be stolen and mis-used. The data was unauthorisedly transferred/copied from the year 2017-18 onwards.

During investigation, Gagandeep Kaur had provided her one laptop to the police authorities and her e-mail account was gone through with her co-operation.

Learned senior counsel for the petitioners submit that the petitioners are ready to co-operate and hand over their laptops, mobiles, hard disks, passwords and gadgets required for investigation. No custodial interrogation of the petitioners is required as there is no specification of the

data alleged to be stolen. It is further argued that as per the allegations, the data belongs to the year 2017 onwards but FIR was got registered in 2021. It is sought to be argued that on invoking the provisions of the Act, the provisions of Indian Penal Code cannot be invoked.

Learned senior counsel for the complainant vehemently opposes the interim relief by submitting that the recovery of gadgets used for misappropriating the data is to be made. The petitioners are experts in their fields, there is every possibility of data being destroyed. Further submission is that without getting the passwords of the accounts of the petitioners, the investigation cannot proceed further.

Leaned counsel for the State on instructions opposes the prayer made by counsel for the petitioners.

At this stage, it would not be appropriate to comment upon the contentions raised regarding invoking the provisions of the Act and IPC together or to deal with the apprehensions raised by learned counsel for the complainant.

Suffice to say that the link of events starts from 2017 onwards and now it is 2021. The petitioners were granted interim protection of stay of arrest vide order dated 7.4.2021. The fact that investigation in the matter is not moving ahead is in interest of none. To ensure the progress of investigation, the petitioners are directed to join the investigation. As per the statements made today they are ready to lend full co-operation. The petitioners are granted interim bail subject to their joining investigation within a week. In the event of arrest, they shall be released on bail subject to their furnishing adequate bail bonds to the satisfaction of the Investigating Officer. They are directed to join the investigation as and when called for. They shall abide by the conditions as envisaged under Section 438(2)

Cr.P.C.

List on 12.10.2021.

*Before the next date, the State shall file status report.
Photo copy of the order be placed on the file of each
connected case”.*

Learned State counsel filed the Status report dated 11.10.2021.

As per the Status report the petitioners have joined the investigation and handed over the electronic equipments like laptops, mobiles, hard disks. The gadgets have been sent for examination to State Cyber Cell, the report is awaited. In status report it is mentioned that to know the modus operandi the custodial interrogation is required.

The State counsel on instructions is not in a position to point out as to what questions or interrogation the petitioners had not answered or the response was found unsatisfactory.

Considering that no recovery as on date is to be made and the petitioners have joined the investigation, the interim bail granted vide order dated 09.08.2021 is made absolute.

Disposed of accordingly.

Needless to say that in case there is change in circumstances on the receipt of report from the Cyber Cell, the State would be at liberty to avail remedies in accordance with law.

A photocopy of this order be placed on the file of each connected case.

12th October 2021

Manju

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No