

208-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No. 18949 of 2021 (O&M)
Decided on: 17.08.2021

Manish Sharma and another

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Prashant Mendiratta, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners pray for grant of anticipatory bail in FIR No.425 dated 07.11.2020 under Section 420 IPC, Section 75 of I.T. Act, 2000 and Section 43, 66d of I.T. (Amendment) Act, 2008, registered at Police Station Badshahpur, District Gurugram.

The operative part of the order dated 21.05.2021, vide which interim anticipatory bail has been granted to the petitioners, is reproduced as under:-

“...Learned counsel for the petitioners, at the very outset, has relied upon the order dated 08.01.2021 passed in CRM-M-504-2021, vide which coaccused Roshan Thomas has been granted the concession of interim anticipatory bail. The operative part of the order reads as under: -

Learned counsel for the petitioner submits that on receiving a secret information that the petitioner is running a call centre without seeking licence from the

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competent authority, a raid was conducted and it was found that the petitioner along with co-accused Manish Sharma and Sunil Tripathi were running a call centre, where about 25 persons were employed. The modus operandi adopted by the accused persons was that they used to pretend themselves as the employees of Microsoft company and offer foreigners to buy virtual security cards worth 200 to 500 dollars. It is further submitted that there is no complaint from Microsoft company till date to verify the said fact and there is no complainant or the victim, who has come forward to stake a claim that the accused persons have cheated them. It is also submitted that on the face of it, no offence under Section 420 IPC is made out and the offences under the I.T. Act are bailable.

Notice of motion.

On asking of the Court, Mr. Sumit Jain, Addl. AG, Haryana accepts notice on behalf of the respondent-State and on instructions from SI Rohtash Kumar, could not dispute that till date, there is no such evidence against the petitioner to invoke Section 420 IPC, however, he submits that the call centre was being run without seeking prior licence/permission from the competent authority. It is further submitted that since the investigation is going on and at a later stage, the evidence may come against the petitioner regarding the allegations of cheating. It is also submitted that in the disclosure statement, some incriminating evidence has come against the petitioner for running fake call centre without seeking permission from the competent authority...”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioners has submitted that the allegations against the petitioners are identical in nature and no new evidence or change of circumstance has happened.

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Learned State counsel, on the basis of affidavit of Assistant Commissioner of Police, Crime-II, Gurugram, has submitted that the allegations against the petitioners are that they, by charging huge amount in dollars from the foreign nationals, duped them by posing themselves as employees of Microsoft company.

A perusal of para No.4 of the affidavit shows that after registration of the FIR, both the petitioners were joined in the investigation on 07.11.2020 and thereafter, they were released in view of the directions laid down by the Hon'ble Supreme Court in Arnesh Kumar Vs. State of Bihar. It is further submitted that recovered CPU, laptop and mobile have been sent to DITAC Lab, Gurugram and result is awaited. It is also submitted that for the purpose of further investigation, notice under Section 41(A) Cr.P.C. has already been sent to the petitioner to join the investigation.

In reply, learned counsel for the petitioners has submitted that the petitioners are ready to join the investigation.

List again on 17.08.2021....”

Counsel for the petitioners has submitted that, in pursuance to the order dated 21.05.2021, the petitioners have appeared before the Investigating Officer and have joined the investigation.

Counsel for the State, on instructions from SHO/Inspector Dhinkar, has not disputed the aforesaid fact and submits that the petitioners are no more required for further investigation.

Counsel for the State submits that the report of DITAC Lab, Gurugram, is yet to be received.

Accordingly, it is directed that on receiving the report of DITAC Lab, Gurugram, the same will be made part of the

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challan/report under Section 173 Cr.P.C.

In view of the above, this petition is allowed and the interim bail granted to the petitioners vide order dated 21.05.2021 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

17.08.2021

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No