

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

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CRM-M-34017-2021.

Date of Decision: 20.08.2021.

Rahul

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Jitender Dhanda, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Rahul** in case FIR No.39 dated 08.03.2021 under Section 379-B IPC, registered at Police Station Rozka Meo, District Nuh.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further submits that though alleged occurrence took place on 03.03.2021, whereas instant FIR was got registered on 08.03.2021 and as such there was inordinate delay of five days in registration of FIR and that too unexplained one. He further urges that complainant-Dushyant Kumar Sharma has not given any cogent reason for

his unwarranted behaviour as immediately after the alleged occurrence, he had left for Delhi without even making a complaint to the Police and this fact alone shows that petitioner has been falsely implicated in a concocted version and that too with ulterior motive. He further urges that nothing incriminating is to be recovered at the instance of petitioner. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

Notice of motion.

At the asking Court, Mr. Vikrant Pamboo, Deputy Advocate General, Haryana, accepts notice on behalf of respondent-State. Complete copy of paperbook has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that on the pretext of arranging job work of making Aadhaar Cards to complainant-Dushyant Kumar Sharma, as work in that regard was in progress in Assam, complainant was asked by the petitioner to come to Sohna alongwith Laptop, Aadhaar Card machine, Camera and cash amount of Rs.16,890/-. He further urges that having received above said assurance, complainant and his friend Shivam Pratap while carrying Laptop make Sony, Aadhaar Card machine make Cogent, Camera make Logitech and cash of Rs.16,890/- reached Sohna on private vehicle. He further urges that on the instructions of petitioner, both complainant and his friend Shivam Pratap were waylaid by four carborne persons, who after giving them severe beatings snatched their valuable belongings, as detailed above.

He further urges that during investigation, car make Alto bearing registration No.HR-93A-0352 involved in the commission of offence, was found to be registered in the name of petitioner-Rahul. He further urges that co-accused Salman Khan was arrested on 13.03.2021 from whom a mobile phone and a wallet containing currency notes of Rs.200/- were recovered and he disclosed the names of petitioner-Rahul and co-accused Sagar to be his associates, who were involved in the commission of offence. He further submits that snatched articles i.e. Aadhaar Card machine make Cogent, Camera make Logitech, Laptop make Sony, cash amount as well as the car used in the commission of offence are yet to be recovered from petitioner-Rahul and further remaining co-accused are still at large. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused in pursuant to effectuate their illegal designs on the pretext of providing job work to complainant-Dushyant Kumar Sharma of making Aadhaar Cards, made him to come to Sohna alongwith requisite components and cash, as detailed above, then after giving severe beatings to complainant and his friend Shivam Pratap, they were deprived of their valuable belongings. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the

judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is now well-settled proposition of law that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the Police. The Court has also to see that the investigation is in the province of the Police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the Police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner, is dismissed.

(LALIT BATRA)
JUDGE

20.08.2021
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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No