

105

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

CRM-M-2249-2022

Date of decision : 19.01.2022

Ashwani Phalswal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rao Ajender Singh, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.623 dated 10.11.2021 registered under Section 420 of the Indian Penal Code, 1860 at Police Station Model Town, Rewari.

FIR in the present case was registered on the basis of complaint of one Satish Kumar to the effect that he had taken admission in Paramount Coaching Centre, Brass Market on 05.04.2021 and the owners of the same were Ravi Rathee and the present petitioner. On 17.04.2021, all the coaching centres were closed on account of COVID-19 pandemic and a sum of Rs.12,000/- was taken from the complainant as

coaching fees. It is further alleged that as per the Government orders, all the coaching centres re-opened on 16.07.2021 but the Paramount Coaching Centre did not open and thus, the complainant contacted the said coaching centre but the money which he had paid as coaching fees had not been returned to him and thus, the present FIR was registered.

Learned counsel for the petitioner has submitted that the petitioner was not the owner of the said coaching centre and was only an employee and has referred to the Appointment Letter dated 10.09.2019 (Annexure P-2) in the said regard. It is further submitted that the co-accused of the petitioner namely, Ravi Rathee, who was also an employee of the said coaching centre has already been granted the concession of anticipatory bail by this Court vide order dated 23.12.2021 passed in CRM-M-54234-2021. It is also submitted that it is M/s AVS Campus, which is running the coaching centre and the present petitioner was only an employee in the said M/s AVS Campus which is a partnership firm. It is also submitted that in fact, only Rs.4,000/- was paid by the complainant to the said Coaching Centre and it had been falsely averred that amount paid was Rs.12,000/-. It is also argued that mere altercation had taken place and the present dispute has civil trappings. It is however submitted that the petitioner is not involved in any other case and thus, his custodial interrogation is not required as the entire case is based on documentary evidence.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana,

appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that as per the allegations, a total sum of Rs.12,000/- had been paid by the complainant and the said amount has not been recovered till date, which is to be recovered from the petitioner.

This Court has heard the learned counsel for the parties and has perused the paper book.

A perusal of the record would show that the petitioner is only an employee of Paramount Coaching Centre, which is being run by M/s AVS Campus, as is apparent from the Appointment Letter dated 10.09.2019 (Annexure P-2). The question, as to whether the amount actually paid by the complainant was Rs.4,000/- or Rs.12,000/- and as to whether certain classes had taken place or not would all be a matter of trial. The present case is based on documentary evidence and the petitioner is stated to be not involved in any other case. The co-accused of the petitioner namely Ravi Rathee who is similarly placed as the present petitioner, has already been granted the concession of anticipatory bail by this Court vide order dated 23.12.2021 passed in CRM-M-54234-2021.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating

Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

19.01.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No