

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

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**CRM-M-20766-2021
Date of decision: 11.05.2022**

CHANDNI @ CHAND @ MAHTALAL NASIR **... Petitioner**

Versus

STATE OF HARYANA **... Respondent**

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G. Haryana.

VINOD S. BHARDWAJ. J.(Oral)

The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) for grant of anticipatory bail in case FIR No. 13 dated 11.02.2021 registered under Sections 419, 420 and 120-B of the Indian Penal Code, 1860 and under Sections 66-D and 77 of the Information Technology Act, 2000 at Police Station Cyber Crime, Gurugram (Haryana).

2. That the case of the prosecution instituted on the complaint on Inspector Azad Singh into effect that a secret information was received by him that a multiple Login IP is being run in an illegal manner from Second

Floor of House No. 979, Swami Vivekanand Block, Saraswati Vihar, MG

Road, Gurugram in the nature of Call Centre of Amazon Help Line and that they are cheating the American people by committing fraud upon them on the pretext of Amazon Technical Support Service. It is alleged that search warrants were accordingly obtained from the Commissioner of Police, Headquarter, Gurugram for committing search of the said premises where in the 03 rooms, 05 boys and 05 girls were talking in English using headphones and Laptops were lying in front of them. Live calls on the screens were reflected and they were recording the information on the sticky notes. The videography and photography of the site was done and all the persons who were present at the Call Centre were asked to furnish information about the documents pertaining to the Call Centre i.e. the Company registration, DOT License, Source of Customer, Mode of payment etc., however, they could not produced any such document and on enquiry submitted that they were acting as employees of Amazon company. It was pointed out that one Samrat Choudhary @ Ankit Choudhary son of Suranjan Choudhary resident of 1003, Saraswati Vihar, Housing Board, MG Road, Gurugram was owner of the Call Centre. He was found present at the site and disclosed that he was running this Call Centre along with the petitioner and one Sunil Chauhan. No documents of registration of the Call Centre or representatives of Amazon Company were produced by Samrat Choudhary @ Ankit Choudhary. Hence, the instant FIR was registered on the pretext of the petitioner and other persons committing alleged fraud with American people.

3. Learned counsel appearing on behalf of the petitioner has submitted that the police had raided the premises and at the relevant point of time, apart from Samrat Choudhary @ Ankit Choudhary, 10 other

persons were available at the site. All other persons present at the spot were not arrested and no attempt was made to arrest the said persons. The petitioner was not present at the said premises on the said date. Moreover, the accused Samrat Choudhary @ Ankit Choudhary who is owner of the said premises and was also running the Call Centre from the same, was released on regular bail by this Court vide order dated 01.04.2021 passed in CRM-M-11904 of 2021. He submits that while granting the concession of Regular Bail, this Court specifically noticed the contentions of the state and it was recorded that the State Counsel conceded that the case is based on documentary evidence and that the said record is already in possession of the Investigating Agency. It was on the said premise that the concession of bail was granted to the owner/main accused Samrat Choudhary @ Ankit Choudhary.

4. Learned counsel has argued that the petitioner is not the owner of the said Call Centre as alleged by the prosecution and was rather offered an appointment at the said Call Centre on 06.01.2021 at a salary of Rs.15,000/- per month. The appointment letter issued to the petitioner was signed by one Mr. Ben who is resident/citizen of United States of America. The petitioner, being an employee, was only executing the directions given to her by Samrat Choudhary @ Ankit Choudhary and that she is not the beneficiary of the transactions other than the salary extended to her and that her status is at par with the other 10 persons (05 boys and 05 girls) who were present at the site at the time of raid.

5. It has also been strenuously argued by learned Senior counsel that the entire case of the prosecution is based on allegations that the Call Centre was being run wherein the employees were portrayed as 'help desk'

for Amazon and thus falsely impersonating before the customers in the United States of America and thereby deceiving them with gift coupons and vouchers and then redeeming the said benefits for their own use. He submits that during the course of investigation, the offence under Section 419 Cr.P.C. stands deleted. Hence, once the offence of impersonation is removed, the case itself fails into oblivion in as much as the allegation of cheating is implicitly linked to the allegation of impersonation. He further submits that there is no complaint by any of the alleged consumers of having been deprived of their gift coupons/vouchers and that no such complaint has also been received by the prosecuting agency from Amazon. Besides, the agency has also not verified the said fact as to whether the petitioners or any of the employees working in the said Centre represented before any person that they are an employee of Amazon or providing technical services on behalf of Amazon.

6. It is also submitted once the respondents have acknowledged that the entire case is based upon documentary evidence. There is no reason or occasion that custodial interrogation of the petitioner is required, especially when the prosecution itself admitted that the documentary evidence is already available with them while advancing arguments as noticed in the bail petition of the co-accused Samrat Choudhary @ Ankit Choudhary.

7. Mr. Ashish Yadav, Additional Advocate General, Haryana has however placed reliance upon the status report filed by way of affidavit of Indivar, HPS, Assistant Commissioner of Police, Cyber Crime, Gurugram to contend that the custodial interrogation of the petitioner is required in order to know of the whereabouts of a Mr. Ben who is

signatory of letter of appointment and also to collect information about the redemption of gift card sent to the petitioner on Mobile phones and details regarding the whereabouts of co-accused Samrat Choudhary @ Ankit Choudhary also need to be obtained.

8. Learned State counsel however could not offer any satisfactory explanation as to how information regarding Mr. Ben is exclusively known to the petitioner and on what basis the prosecution submits that the said information could not be made available or be secured by any other means. It is also not been satisfactorily explained as to how the petitioner alone would be privy to the said information. Moreover, the case of the prosecution itself is at some variance and contradiction in as much as in the FIR, it is stated that the petitioner was amongst one of the owners along with Samrat Choudhary @ Ankit Choudhary and then at the same time, it is a case set up that her appointment letter was issued by Mr. Ben. She is thus claimed to be an employee in the same breath. Insofar as the second contention about the redemption of the gift cards is concerned, the details of the gift cards/vouchers were available from Samrat Choudhary @ Ankit Choudhary as the said details were forwarded by the co-accused to the petitioner on her WhatsApp number. Furthermore, a verification, if any, of the redemption of the card and regarding where the proceeds have gone can only be done from the vendors who are attributed to have redeemed the said gift vouchers. The demand of custodial interrogation of the petitioner in such circumstances is wholly unwarranted and unjustified. Moreover the offence, if any, which stands committed is pertaining to the Call Centre being run without seeking appropriate registration and

approval under the Information and Technology Act, 2000. However, the petitioner claiming to be an employee on the strength of the appointment letter cannot be held liable for the failure, if any, so committed by the owner/proprietor of the Call Centre. Besides, the said aspect can be duly verified regarding the registration of the Centre from the competent registering authority and again the same would not necessitate the custodial interrogation of the petitioner.

In view of the above, the interim order dated 25.05.2021 is made absolute.

MAY 11, 2022
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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