

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-28479-2022(O&M)
Date of decision : 12.07.2022

Sajid

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Khalid Tauru, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

Mr.Abhinav Sood, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.37 dated 19.01.2022 registered under Section 420 and Section 67 of the Information Technology (Amendment) Act, 2008 at Police Station Chand HUT, District Palwal.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not been named in the FIR and there was a delay of 7 days in registration of the FIR and the amount in question had been deposited in the account of co-accused Abbas and not in the account of the present petitioner and thus, the present petitioner deserves the concession of anticipatory bail.

Learned State counsel and learned counsel for the complainant

DAVINDER KUMAR
2022.07.15 18:16 have opposed the present petition for anticipatory bail. Learned State
I attest to the accuracy and
authenticity of this order

counsel has filed reply by way of an affidavit of Vijay Pal, HPS, Deputy Superintendent of Police, District Palwal on behalf of the State of Haryana, a copy of which is taken on record. Reference has been made to paragraphs 3 to 6 of the said reply. The relevant portion of said reply is reproduced hereinbelow:-

“3. That the Tower location of mobile no. 9395683091 at the time of extort call was village Nandera Tehsil Kama District Bharatpur Rajasthan. The copy of call detail of mobile no. 9395683091 (used to extort call to complainant) showing above mention tower location is annexed as Annexure R-2. Further the separate call detail of IMEI No.8628970552330/ 31 were obtained and analysed. That mobile no. 7419137818 found to be used in IMEI No. 8628970552330/ 31 since 28-11-2021 to 27-12-2021. Copy of call detail of IMEI no. 8628970552330/ 31 is annexed as Annexure R-3. It is pretent to mention here that the last Tower location of mobile no. 7419137818 inserted in IMEI No. 8628970552330/ 31 was also village Nandera Tehsil Kama District Bharatpur Rajasthan. That as per address detail of mobile no. 7419137818 the same was allotted to accused/ present petitioner. Copy of Address detail of mobile no. 7419137818 is annexed as Annexure R-4. That the transactions detail of Phonepay wallet of complainant were obtained. That in Virtual Payment address the receiver mobile no. 8099622427 was mentioned. That as per received Customer Application Form the number was allotted to co accused Abbas. It is pretent to mention here that this mobile no. of co accused was also inserted in above mentioned same disputed IMEI No.8628970552330 /31.

4. That as per obtained call detail, IMEI detail, CAF and Tower location the involvement of accused / present petitioner and other co-accused Rahul Sokin, Abbas, and Taalim were found in this case. Notice under section 41 Crpc were served upon all accused but they did not join investigation. That accused/ present petitioner and other co accused Rahul and Sokin filed the petition for seeking anticipatory bail before Ld. ASJ Palwal the same was dismissed by Ld. ASJ Palwal vide its order dated 18.06.2022. That arrest warrant against the accused / present petitioner and other co-accused were also obtained from Ld. Area Magistrate for 22.08.2022.

5. *That all accused of this case are very clever person, they got purchased mobile SIM form state of Aasam with the help of their gang members and travelled these in border region of Haryana, Rajasthan and Utter Pardesh and used them as per their modus operandi, like this type sextortion scam to extort money from victim.*

6. *That the custodial interrogation of accused/ present petitioner is required to ascertain the real facts and the detail of other member of sextortion gang, to recover the embezzled amount of complainant, to recover the used IMEI No. 8628970552330 / 31 and mobile no.9127248255, 9395683091, to recover the recorded video clip of complainant.*

That it is, therefore, prayed to the Hon'ble High Court that keeping in view the aforementioned submissions, the present petition of the petitioner may kindly be dismissed."

It is submitted by learned State counsel and learned counsel for the complainant that as per the said reply, the involvement of the present petitioner is apparent and thus, his custodial interrogation is required.

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

The FIR in the present case has been registered on the complaint of Manoj Kumar who had stated that on 10.01.2022 he had received a friend request in the name of Manisha Sharma on messenger which he had accepted and at the same time, a video call from mobile number 9127248225 was received and the complainant picked up the video call where a girl without clothes was on the other side of the call and before the complainant could understand, the recording of 15 to 20 seconds of the said video call was done and thereafter on 11.01.2022, the complainant got a call from mobile number 9395683091 in which the person who had called up, stated that he was CBI Chief and further informed the complainant that the girl whom he had talked to the previous night, was going to upload his

video on You Tube and an account number was given and even the Phone Pay number was given to the complainant and he was asked to deposit money in the said account and the complainant thereafter deposited the various amounts in the said account in installments of Rs.5,100/- Rs.14,999/-, Rs.21,999/-, Rs.10,000/-, Rs.31,999/- and Rs.11,000/-, with the further allegation that four persons had taken an amount of Rs.50,000/- from the complainant. A perusal of the affidavit filed by the State would show that the tower location of mobile number 9395683091, which was allegedly used at the time of making the extortion call, was of village Nandera, Tehsil Kama, District Bharatpur, Rajasthan. Separate call details of IMEI no.8628970552330/31 were obtained and analyzed, and it was found that even mobile number 7419137818, which belongs to the present petitioner, was found to be used in IMEI no.8628970552330/31 and the last tower location of mobile number 7419137818 inserted in the above said IMEI number was also of village Nandera, Tehsil Kama, District Bharatpur, Rajasthan and along with the said reply, Annexure R-4 has been annexed which showed that the subscriber name with respect to mobile no. 7419137818 is that the present petitioner and it is further mentioned that thereafter notice under Section 41 Cr.P.C. was served upon all the accused but they did not join the investigation and thereafter, arrest warrants were issued against the accused and the accused persons purchased a SIM card from the State of Assam with the help of their gang members and travelled in the border region of Haryana, Rajasthan and Uttar Pradesh and used them, as per their modus operandi, to extract money. It is further stated that the custodial interrogation of the petitioner is required to ascertain the details of other members of the said gang and also to recover the used IMEI

no.8628970552330/31 and other mobile numbers. From the above said facts, it is apparent that the said gang is extorting money from innocent persons and calls are being made by inserting and using various SIM cards. The SIM card, which has been allotted to the present petitioner, has also been used in phone bearing IMEI no.8628970552330/31 and although the petitioner is a resident of Haryana, yet a perusal of the reply would also show that from the tower location of the SIM belonging to the petitioner, it came out that the last tower location was of village Nandera, Tehsil Kama, District Bharatput, Rajasthan. Although, the petitioner has completely denied his involvement in the present case before this Court but a perusal of the order rejecting anticipatory bail to the petitioner passed by the Additional Sessions Judge, Palwal, on 18.06.2022 would show that in paragraph 5 of the same it has been argued on behalf of the petitioner that the I-card of the petitioner had been misused by some persons. The said argument raised before the Additional Sessions Judge, Palwal, has neither been raised nor substantiated before this Court. The petitioner is *prima facie* involved in the alleged offence.

With respect to the delay of 7 days in registration of the FIR, it is the case of the complainant that after receiving the call on 11.01.2022, he had made payments in installments at various points in time and it is thereafter, that he had filed a complaint on 19.01.2022. At any rate, in view of the seriousness of the offence, the said delay would not entitle the petitioner to grant of anticipatory bail.

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is dismissed.

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 petition.

Pending miscellaneous application, if any, stands disposed of in view of the above said order.

(VIKAS BAHL)
JUDGE

July 12, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No