

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

**CRM-M No.31230 of 2022
Date of Decision: 31.08.2022**

Vishnu Sharma

.....Petitioner

Versus

Union Territory, Chandigarh and others

.....Respondents

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Additional PP and
Mr. Sumit Jain, Additional PP
for the respondent-UT.

MEENAKSHI I. MEHTA, J.(Oral)

Apprehending his arrest in the criminal case arisen out of the FIR bearing No.0042 dated 08.06.2022 registered at Police Station Sector-49, Chandigarh, under Sections 120-B, 419 and 420 IPC, the petitioner has preferred this petition for seeking the relief of pre-arrest bail.

2. Bereft of unnecessary details, the allegations, as levelled by informant Kanwaljeet Singh in the subject FIR, are that on 13.08.2020, he received a message on his mobile phone to call the Paytm Officer as the KYC had expired. When he called at the disclosed number, he was asked to resort to some procedure (step-by-step) using his debit card and after some time, he received a message on his phone that an amount of Rs.99,021.24 Ps. had been debited from his bank account and thus, he had been duped of the said amount.

3. Status-report has already been submitted on behalf of the respondents, by way of the affidavit of the Deputy Superintendent of Police (Cyber Crime), Sector-17, UT Chandigarh, along-with Annexures R-1 to R-7.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file carefully.

5. Learned counsel for the petitioner contends that there was a delay of almost two years in lodging the FIR and moreover, the factual details, as narrated in the afore-said status-report, had not been disclosed in the reply submitted before the Court below, for the purpose of the bail application moved by the petitioner there for seeking the relief of pre-arrest bail and even otherwise, the petitioner is ready to pay the above-said amount to the complainant and to add to it, the phone numbers, allegedly used in the crime, are found to have been issued to Sallauddin and Faizal Khan and the petitioner had no concern with them and in these circumstances, he (petitioner) deserves the relief as prayed for in this petition.

6. Per contra, learned Public Prosecutor for the respondent-UT argues that the petitioner is the beneficiary of the monetary transaction under reference as the afore-said amount had been received in his gold loan bank account from the account of the informant and a detailed inquiry had been conducted in respect of the complaint moved by the informant and the necessary information had been gathered from various quarters before

registering the FIR and moreover, the electronic and other gadgets, as used by the petitioner in the crime, are yet to be recovered from him and therefore, his custodial interrogation is required and it being so, the instant petition be dismissed.

7. As regards the contention qua the delay in lodging the FIR, it is worth-while to mention here that the alleged monetary transaction took place on 13.08.2020 and the informant reported the matter to the Police on the same day and as mentioned in the status-report itself, a thorough inquiry had been conducted by obtaining the requisite details from various quarters including the service provider, i.e the mobile phone company, before registering the FIR and even otherwise, the effect of such delay on the case of the prosecution, can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be ascertained at the stage of deciding this bail petition.

8. So far as the second contention regarding some facts, as mentioned in the status-report, having not been mentioned in the reply to the bail application filed before the Court below, is concerned, it is pertinent to mention here that the investigation in the present case is still at the nascent stage and the investigating agency is in the process of collecting the necessary information qua the alleged commission of the crime, from various quarters and in such circumstances, this contention pales into insignificance.

9. As regards the contention qua the willingness on the part of the petitioner to pay the amount in question to the informant, again this fact would not be relevant for deciding the present petition and moreover, the complainant has not been arrayed as a party in the instant petition.

10. Lastly, even if the mobile phone numbers, allegedly used in the commission of the offence in the present case, are found to have been issued to said Sallauddin and Faizal Khan, even then the fact remains that as discussed earlier, the afore-said amount had finally been received in the gold loan bank account of the petitioner only. In these circumstances, the possibility of the requirement of the custodial interrogation of the petitioner to unearth the *modus operandi* adopted by him for committing the alleged crime, cannot be ruled out.

11. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of pre-arrest bail. Resultantly, the petition in hand stands dismissed accordingly.

12. However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

August 31, 2022
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>