

CRM-M-39684-2022
Date of decision: 21.10.2022

Kadhar Basha JMA @ Kadar Basha @ Kadar Basa @ KadarPetitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Sukhdev Singh, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. N.K. Chhokar, Advocate, for the complainant.

NAMIT KUMAR, J.

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in a case bearing FIR No.397 dated 26.07.2016 under Sections 120-B/406/420 of IPC registered at Police Station Civil Lines, Gurgaon, District Gurugram.

The FIR was registered at the instance of the complainant-Brahm Pal to the effect that friend of complainant had purchased a car from Chennai being inoperative due to flood in Chennai. Complainant also went there for purchase of car. On 29.03.2016, complainant met MD of choice cars at 253 MTH Road Vilevakam Chennai. Car was shown to the complainant and deal was fixed for Rs.13,30,000/- and complainant gave Rs.10,000/- as token money in cash which was acknowledged by Kadhar Basha on his letter pad and thereafter complainant transferred Rs.9 lakh from his bank account through RTGS on 04.04.2016 upon inducement of Kadar Basha and Keerthivasan in their account. Prior to that Rs.50,000/- were also transferred through RTGS on 31.03.2016. Kadar Basha came to Delhi and he asked complainant to come to Chennai with Rs.3,70,000/- and there will be no problem. Complainant went to Chennai having DD of Rs.2,70,000/- and cash amount of Rs.1,00,000/- and kept on calling Kadar Basha and Keerthivasan but they did not pick up the phone. In the

meantime Narender Kumar who was working in the workshop of Choice Cars(Petitioner's firm) at Chennai, said he will complete the formalities and asked the complainant to transfer the amount in his account on 13.4.2016. The complainant repeatedly called above named Kadar Basha and Keerthivasan but they have not been picking up his phone. Narender asked him that he will return the money till 24.06.2016 but till now complainant has not received the money.

On issuance of notice of motion, reply dated 10.09.2022 by way of an affidavit of Sh. Rajender Singh, HPS, Assistant Commissioner of Police, City, Gurugram, has been filed on behalf of the respondent-State, wherein, it has been stated that the petitioner is one of the main accused. He is the owner of the Car Choice Garage, Chennai. He had obtained the initial token money of Rs.10,000/- and he had acknowledged the same on his letterhead. The petitioner had further induced the complainant and made him to pay Rs.13,30,000/- for purchase of car, however, neither the car was delivered to the complainant nor his money was returned, thereby, the petitioner played active role in the fraud committed with the complainant. It has further been submitted that the petitioner has not joined the investigation till date. The custodial interrogation of the petitioner is required for obtaining his specimen and admitted signature, to recover the amount obtained by him by committing fraud and to obtain other information regarding modus operandi etc. so as to unearth the truth and to arrive at the logical conclusion. It has further been averred that the petitioner has been declared a proclaimed person and FIR. No.2454 dated 29.12.2019 under Section 174-A of IPC has been registered at Police Station Shivaji Nagar, Gurugram.

Learned counsel for the petitioner contends that he has falsely been implicated in the case and he is ready to return a sum of Rs.10,000/- which is stated to have been given to him. He further submits that the petitioner has challenged the proclaimed offender order in CRM-M-30261-2022 titled as 'Kadhar Basha JMA alias Kadar Basha alias Kadar Basa alias Kadar vs. State of Haryana' and in the said petition,

notice of motion has been issued and operation of impugned proclaimed offender order has been stayed and the petitioner has been given liberty to appear before the trial Court in FIR under Section 174-A of IPC vide order dated 15.07.2022, which is fixed for 19.1.2023.

The learned State counsel submits that the FIR No.397 was registered on 26.07.2016 under Sections 120-B/406/420 of IPC and all the accused, including the petitioner are on a run and are absconding, have not joined the investigation till date and, has not surrendered before the trial Court in terms of order dated 15.07.2022 passed in CRM-M-3026-2022, therefore, cannot seek the concession of pre arrest bail.

Keeping in view the totality of facts and over all circumstances of the case, it is clear that all the accused including petitioner have duped the complainant for a sum of Rs.13,30,000/- and are evading the arrest after registration of FIR which was registered in the year 2016 and even have been declared proclaimed persons. And FIR under Section 174-A of IPC in this regard has been registered against the petitioner.

In wake of the above, this Court is not inclined to accept the prayer seeking pre-arrest bail to the petitioner and the same is dismissed accordingly.

(NAMIT KUMAR)
JUDGE

21.10.2022
Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No