104 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-51063-2022
Date of Decision: 10.11.2022

Arshdeep Garg ...Petitioner

Versus

State of Punjab ...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Suneel Sharma, Advocate for the petitioner.

Mr.G.S.Sandhu, DAG, Punjab.

<u>ASHOK KUMAR VERMA,</u> J.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to him in FIR No.45 dated 19.09.2022 under Sections 420/120-B of IPC and Section 66-C, 66-D of the Information Technology Act, registered at Police Station Punjab Cyber Crime, District SAS Nagar, Mohali.

The brief facts of the prosecution story in a nutshell are that the present FIR was registered on the complaint of complainant Pardeep Kumar Verma authorized signatory for M/s Teleperformance Global Services Private Limited against employees for performing unauthorized actions, manipulating the client portals for creating fraudulent return requests and taking refunds for self/relatives/friends' account, without any calls/request from the customers, misusing the systems and computers provided to them for performing their work obligations.

Leaned counsel for the petitioner submits that M/s Teleperformance Global Services Private Limited is a private limited company registered under the Indian Companies Act, 1956 having its place of business Teleperformance, Unit No. 218-231, Tower-B, Plot No. 1, Bestech Business Tower, Sector 66-A, Mohali. It is engaged in business of providing outsourcing services to its various clients including reputed E-commerce Companies (Clients) wherein out call center employees (agents) handle and address and customer order placed/return requests/payments related queries and therefore have access to its portal and other information like customer's sensitive data. He submits that on 21.04.2022, two fraudulent transactions of INR 1,59,848/ where 2 "Refund Don't expect returns" were created using the Smart Assist ID of Aman Kaur. Upon further investigation, it was identified that employee from IJS queue Arshdeep Garg did the fraudulent transactions and took the refund of INR 159848/-. The interview of Arshdeep Garg was conducted and he confessed that he created both the returns using the Smart Assist credentials of Aman Kaur. He also confessed that the mobile number 8054366584 under which the client account is registered belongs to him and the product was delivered to Ravinder Singh who was an employee in his father's trade business. The laptop used for playing the fraud belongs to his friend Pranshu Thakur, who is a friend and room mate of Arshdeep Garg. The refund was credited back to the source account and the customer Ravinder Singh transferred INR 65000/- to Arshdeep Singh's bank account and INR 52000/- to Pranshu Thakur. Total financial impact is INR 159848/-. As per Arshdeep, the SA password of Aman Kaur was very simple and he was able to login to her SA using a common SA password. Written statements were also collected from Arshdeep Garg and Pranshu Thakur explaining the modus operandi and financial transactions. Arshdeep Garg and Pranshu Thakur submitted their bank statements and the transactions were verified. The internal investigation of the company and the amount misappropriated was came to light as INR 1,59,848/-. However, the actual number of transactions in which the suspected employee may be involved is not known and which may only be unearthed with the intervention of State Investigating Agency and it was requested that action should be taken.

Learned counsel for the petitioner submits that a preliminary inquiry was taken into consideration. The representatives of the company as well as accused employees were called to join the enquiry. They joined their inquiry and tendered their statements. On careful scrutiny of the information provided by the representatives of the company and ex-employees of the company, it has been observed that complainant company is engaged in the business of providing outsourcing services to various reputed E-commerce companies which also includes Flipkart. The alleged fraudulent transactions are related with the refund of the amount of the products purchased from Flipkart company only and the employees of the complainant-company deal with the customers of Flipkart Company only. As per record of complainant company, the refund requests under heading “Don't expect returns" in the portal were fraudulently raised by the employees and thereafter refunded amount was transferred to the accounts of employees or someone known to the employees. As per statements of ex-employees, the credentials of their login ID and password which were used to gain access of the portal of the Flipkart company were misused by an employee of the company who was well aware about this loop hole in this system and further the amount refunded back has not been credited into the account of these employees or any of their known. After going through the documents provided by the complainant company and the information provided by the accused employee, it has been observed that the employees of the complainant company entered into the web portal of the company to resolve the grievances of the customers of Flipkart company by going through two layer process. First, by using ACCOP VPN through some pre-registered electronic device, employees of the complainant company first opened the smart assist application and thereafter by entering their login ID and password to this application, they entered into actual portal of the company to assist those customers who had purchased items from Flipkart. Therefore, to know the actual user (s) who entered into portal by using credentials of the employees and to know actual beneficiary of the refunded amount, information about the IP logs, about the beneficiary bank accounts and various other relevant information were sought from the company and it has been concluded that some unknown users by using the pre-registered electronic device has entered into the portal of the company by using the credential of the employees of the complainant company.

Learned counsel for the petitioner further submits that the petitioner has been falsely implicated in the present case. The present FIR has been registered after the expiry of 6 months. The complainant is alleging that the recovery of Rs.1,50,000/- from the petitioner and

Rs.40,000/- of the petitioner were deducted by the complainant company which was the balance salary of the petitioner and the complainant company is sent the e-mail message on the whatsapp number of the petitioner and on that message it was written that the petitioner was to deposit the balance amount of Rs.1,20,223/- within seven days. He submits that the petitioner is ready to deposit the said amount. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of this Court, Mr. GS Sandhu, DAG, Punjab accepts notice on behalf of the respondent-State. He opposes the grant of anticipatory bail to the petitioner as there are specific allegations against the petitioner and hefty amount is yet to be recovered from him and as such his custodial interrogation is necessary.

Having heard learned counsel for the parties, *prima facie,* I am of the view that there is a specific role attributed to the petitioner. The complainant company is engaged in the business of providing different services to its clients and it was found that the fraudulent requests for fund were placed by the agents without receiving any call from the customers and without any e-mail transactions with the customers. A huge loss was caused to the company and it was found that the petitioner did fraudulent transactions and took the refund of amount.

The allegations against the petitioner are serious in nature. Moreover, the investigation is still going on and therefore custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of the offence. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma**, (2014) 2 SCC 171.

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

10.11.2022
MFK

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*