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

CRM-M-5145-2022 (O&M)

Date of decision : 05.12.2023

Naveen Rathi

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ajay Kripal Singh, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Pawan Kumar Hooda, Advocate,
for the complainant.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.58 dated 03.03.2021, under Sections 420 & 406 of the Indian Penal Code, 1860, registered at Police Station, Sector 13-17, District Panipat.

2. Allegations are that petitioner along with co-accused cheated the complainant by purchasing goods in his name by hacking ID and password of his Amazon account.

3. A Coordinate Bench, on 08.02.2022, granted interim bail to petitioner and relevant part of the same reads as under:-

“The matter has been taken up through Video Conferencing.

Learned counsel for the petitioner inter-alta contends that the petitioner has been falsely implicated in this case on account of business rivalry between the petitioner and the complainant, at an earlier point of time the petitioner and the complainant were jointly doing a business in which at a later date their relations became sour, the petitioner has no criminal antecedents; the main allegation against the petitioner is of having deceitfully used the complainant's user name and password to order goods on his behalf from M/s Amazon; such allegations on the face of it, are false as it is virtually impossible to procure a business rival's user name and password; even if it is assumed that the user-name and password were known, even then, to place an order on the basis thereof, without having access to the account holder's telephone/ email is impossible because before placing of the order an OTP (one time password) is generated on the registered phone/ email; the present complaint is a counter blast to an earlier complaint filed by the petitioner against the complainant at Panipat through which the petitioner had alleged that the complainant was not permitting the petitioner to enter the business premises being jointly run by the parties and that the petitioner is also ready and willing to join investigation as and when called by the investigating agency.

Notice of motion.

Mr.Sumit Jain, Additional Advocate General, Haryana, accepts notice on behalf of the respondent-State

For arguments, adjourned to 20.07.2022.

In the meanwhile subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438(2) Cr.P.C, in the event of his arrest in FIR No.58. dated 03.03.2021, registered under Sections 406, 420 IPC at Police Station Sector 13/17, District Panipat, he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

Before the adjourned date the State shall file a concise status report.”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required. Further submits that the parties i.e. petitioner as well as complainant have amicably settled their dispute.

5. Above factual position is disputed by learned State Counsel, on instructions from the police officer present in Court. Learned State counsel submits that petitioner has not joined the investigation despite direction given by this Court.
6. Learned counsel for the complainant also acknowledged that there is a compromise between the parties.
7. In view of above, interim order dated 08.02.2022, is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
8. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
9. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
10. Disposed off accordingly.
11. Pending application(s), if any, shall stand disposed off.

05.12.2023

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(MAHABIR SINGH SINDHU)
JUDGE

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