

201

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15848-2023 (O&M)
Date of decision: 17.07.2023

Rajnish Jain

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Balwinder Singh, Advocate
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

Mr. A.S. Salar, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.2 dated 09.06.2018 under Sections 420, 406 IPC read with Section 66 of I.T. Act, registered at Police Station State Cyber Crime, SAS Nagar, District Crime Wing.

While granting interim bail to the petitioner, following order was passed by this Court on 05.05.2023: -

“This is the second petition that has been filed for grant of anticipatory bail to the petitioner in FIR No. 2 dated 09.06.2018,

registered under Sections 420, 406 of the IPC read with Section 66 of the Information Technology Act, PS-State Cyber Crime Police Station SAS Nagar District Crime Wing.

The first petition, bearing CRM-M-22902-2020, was dismissed by this Court on 17.08.2020.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that some of the co-accused have been granted the concession of bail.

Learned counsel for the petitioner has referred to paragraph No. 11 of the affidavit of DSP, State Crime, SAS Nagar, which is on record, wherein it is stated that during investigation, the role of the petitioner and co-accused Sadhna Dubey came into light and they were nominated as accused.

Learned counsel further submits that co-accused Sadhna Dubey has been granted the concession of anticipatory bail, vide order dated 27.08.2021 passed by this Court in CRM-M-13822-2021. The operative part of the order reads as under:

“Prayer in this petition is for grant of anticipatory bail in FIR No.2 dated 09.06.2018 under Sections 406, 420 IPC and Section 66 of I.T. Act, registered at Police Station State Cyber Crime, SAS Nagar.

While granting interim bail to the petitioner, following order was passed by this Court on 26.03.2021: -

“...Learned counsel for the petitioner submits that the petitioner is an old lady aged about 68 years and is suffering from age related health problems. It is further submitted that the petitioner is a resident of Chhattisgarh and her husband is a doctor, who is running a hospital and as per the FIR, there is no allegation against her.

Learned counsel further submits that as per allegations in the FIR, registered on the complaint of Sumit Sidhu, Director, Sahib Tradelinks Pvt. Ltd., the representatives of AppsDaily Solutions Pvt. Ltd. approached the complainant for setting a business agreement by offering him national distributorship for sale of insurance plans, extended warranty and damage protection for mobile phone. It was offered that the same can be purchased by way of online internet mobile application through AppsDaily Wallet recharge points, which the complainant can sell. It is further stated in the FIR that the complainant was made distributor and he had invested Rs.3.25 crores for the purchase of wallet points, but the accused company and its directors cheated the complainant, as neither they could provide the services as promised nor the accused company transferred the wallet points equal to the invested amount of Rs.3.25 crores and only wallet points of Rs.1.5 crore were

transferred.

Learned counsel for the petitioner has further submitted that primary allegations are against co-accused Arun Kumar Menon and his brother Ajay Kumar Menon. It is also submitted that the petitioner is mother-in-law of one of the director Ajay Kumar Menon. It is next submitted that there was no previty of contract between the petitioner and the complainant as per allegations in the FIR and the petitioner came to know about pendency of the FIR, when she was served with a notice under Section 41A(1) Cr.P.C. to appear before the Investigating Officer on 09.06.2020. It is further submitted that due to COVID-19 situation, the petitioner approached the High Court of Chhattisgarh, Bilaspur, where she was granted transit bail and thereafter, she moved an application before the Court of Sessions, SAS Nagar, which was dismissed.

Learned counsel for the petitioner has argued that the petitioner has no direct dealing with the complainant; the offences are triable by the Court of Magistrate and main accused, against whom, the allegations of handing over the money are there, have been arrested and have already been granted the concession of regular bail.

In reply, learned State counsel, assisted by learned

counsel for the complainant, has, however, submitted that as per the investigation, main accused Ajay Kumar Menon and Arun Kumar Menon transferred an amount of Rs.90.00 lacs in the account of their sub dealer Rajnish Jain, who further transferred the amount of Rs.50.00 lacs in the account of the petitioner on the very next day and again, on the next day, Rs.25.00 lacs each were transferred in the accounts of Ajay Kumar Menon and Arun Kumar Menon. It is further submitted that in order to find out how this transaction took place, custodial interrogation of the petitioner is required. It is also submitted that the anticipatory bail of co-accused Rajnish Jain was dismissed, whereas it is not disputed that regular bail application of main accused Ajay Kumar Menon and Arun Kumar Menon, who were the persons responsible for AppsDaily Solutions Pvt. Ltd., have been granted the concession of regular bail...”

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation and is no more required for further investigation.

Learned State counsel, on instructions from Inspector Gagandeep Singh, has not disputed the factual position and submits that the petitioner is no more required for further investigation.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 26.03.2021 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C. ”

Learned counsel for the petitioner further submits that the FIR pertains to the year 2018 and till date, neither investigation is complete nor any evidence has come against the petitioner and in the case of co-accused Sadhna Dubey, the Assistant Inspector General of Police, State Cyber Crime Cell, Chandigarh has submitted a report that the matter is of civil nature and it involved financial transactions.

Learned counsel further submits that in the petition bearing CRM-M-35596-2018, filed by main accused Arun Kumar Menon, the trial Court has been directed to adjourn the case beyond the date fixed before this Court.

Learned counsel further submits that other accused, namely Vani Kola, Gautam Patel and Rajiv Indur Dadlani, have filed criminal miscellaneous petitions before this Court, whereby, it is directed that no coercive action shall be taken against them and all these petitions are listed for 17.07.2023.

Learned State counsel, assisted by learned counsel for the complainant, could not dispute that despite the lapse of a period of

about five years, the police could not conclude the investigation.”

Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner has joined the investigation and is not required for any further investigation.

Affidavit of DSP, State Crime, District SAS Nagar is on record, in which, after verifying the investigation with regard to other accused, it is stated that on the basis of aforesaid order, the petitioner has joined the investigation. It is further stated that the petitioner is not involved in any other case and he was never declared a proclaimed offender.

Learned State counsel, on instructions from the Investigating Officer, also submitted that the petitioner has joined the investigation.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 05.05.2023 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

[ARVIND SINGH SANGWAN]
JUDGE

17.07.2023
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No