

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

CRM-M-20797-2023

Date of Decision: 27.04.2023

Irfan Khan

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Neeraj Yadav, Advocate, for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J.

The petitioner has approached this Court praying for grant of anticipatory bail to him in a case FIR No.126, dated 01.07.2020 registered under Sections 420 IPC and Section 66-D of Information Technology Act, 2008, at Cyber Crime Police Station, District Gurugram.

As per facts of the case, the FIR was registered on the statement of one R. Jolly. It was alleged that one Vikas Patil, who claimed himself as Army personnel sent the complainant IDs and offered one account for transferring an amount of Rs.9,150/-. He made the transfer of the said amount by Paytm. Thereafter, he got phone call and whatsapp messages from phone No.8890860695, which was said to be of a delivery man. Despite repeated request, they did not respond and he was further asked to transfer Rs.11,550/- failing which they refused to return the amount of Rs.9,150/-, which he had already deposited with him. Prayer was made to take legal action against the accused. On the basis of the complaint, formal FIR was registered and investigation commenced. During the investigation, complicity of the petitioner surfaced and thus, apprehending arrest, the

petitioners approached the Court of learned Additional Sessions Judge, Gurugram praying for grant of anticipatory bail, however, after hearing both the sides, the learned Court declined the same vide order dated 01.03.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of anticipatory bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that neither the petitioner is named in the FIR nor there is any allegation made against him. He submits that the amount of Rs.9,150/- as alleged by the petitioner is not transferred in the account of the petitioner, thus, nothing is to be recovered from him. He submits that the alleged incident has taken place on 30.05.2020, whereas, the FIR has been registered on 01.07.2020 i.e. after a delay of one month. He submits that the account number as alleged in the FIR does not belong to the petitioner.

However, learned State counsel has opposed the submissions made by the petitioner. On instructions from Inspector Jasvir Singh, he has submitted that though the petitioner is a labourer but during investigation, the Investigating Agency has found a transaction of Rs.69 lacs in his account within a span of six months. He submits that the petitioner is resident of Rajasthan and when the police went to his place for enquiry, he attacked the police and thus, FIR No.399 dated 05.09.2022 under Sections 143, 332, 353, 224, 225 IPC and Section 3 of PDPP Act at Police Station Sikri, District Bharatpur, Rajasthan, has been registered against him. He has submitted that heavy transaction of Rs.69 lacs within six months in the account of the petitioner, is a strong evidence, which needs a thorough investigation and in case, the petitioner is granted anticipatory bail, the

investigation would seriously be prejudiced. He has prayed for dismissal of the present petition.

Heard.

Though the petitioner has not been named in the present FIR, however, his involvement has surfaced during the investigation. As submitted by learned State counsel that the petitioner is a labourer by profession, whereas, within six months there is a transaction of Rs.69 lacs in his account, for which there is no satisfactory explanation. Besides this, the petitioner has attacked the police personnel as well and hence, FIR No.399 dated 05.09.2022 under Sections 143, 332, 353, 224, 225 IPC and Section 3 of PDPP Act at Police Station Sikri, District Bharatpur, Rajasthan, has been registered against him.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct

themselves as offenders.”

The Hon’ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

27.04.2023
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE