

101+ 202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:164294
CRM-52835-2023 in/and
CRM-M-30417-2023
Date of Decision: December 19, 2023

Jitender

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. R.P.S. Jammu, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Nikhil Vats, Advocate for the complainant.

DEEPAK GUPTA, J.(Oral)

CRM-52835-2023

This is an application moved on behalf of the complainant to place on record copy of status report, which was filed by the respondent-State before the Trial Court concerned as Annexure A-1.

Allowed.

Annexure A-1 is taken on record.

Main Case

On 14.06.2023, following order was passed:-

“Prayer in this petition is for grant of anticipatory bail under Section 438 Cr.P.C in case FIR No.437 dated 10.10.2022 registered under Sections 420 & 406 of the IPC (Section 66-C of the Information Technology Act added later on) registered at Police Station Kalanaur, District Rohtak.

2. Allegations are that petitioner persuaded the complainant Sunil to open an account in HDFC bank. It is alleged that by changing his mobile number, petitioner managed to mention mobile number 9718959798 in the bank papers and did the transaction of more than `42,00,000/- for playing online games.

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3. It is contended by learned counsel that the account belongs to the complainant and was being operated by him. Mobile number 9718959798 does not belong to the petitioner and rather belongs to some Gopal. All the transactions are online. There is nothing to show that any UPI was collected or even the bank statements were collected by the police so far.

4. Notice of motion.

5. Mr. Randhir Singh, Addl. AG, Haryana accepts notice on behalf of respondent- State.

6. Let the detailed status report be filed by respondent- State.

7. Adjourned to 11.09.2023.

8. In case of his arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer.

However, it is directed that the petitioner shall join the investigation as and when so required by the Investigating Officer. He shall not contact any person associated with the case to dissuade him from the investigation in any manner whatsoever and nor shall leave the country without prior permission of the Court. He shall further comply with the conditions stipulated in Section 438(2) Cr.P.C.”

2. As was informed by learned State counsel on 11.09.2023 that petitioner had joined the investigation, but was not co-operating in the same. The matter was adjourned to 31.10.2023. Status report was filed on the adjourned date and controversy was found to have been confined to the issue as to whether amount of ₹2 lacs allegedly deposited by Prince in the account of complainant Sunil, had been withdrawn by the petitioner or was still lying in the account.

3. Learned State counsel has clarified the said point by pointing out towards the affidavit of Shri Sandeep Kumar, Deputy Superintendent of Police, Meham, District Rohtak, as per which the amount of ₹2 lacs is still lying deposited in the account and the same has not been withdrawn.

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3. Objection was raised on behalf of learned counsel for the complainant that in fact fraud of ₹42 lacs was committed.

4. A perusal of the FIR besides status report, which was filed by respondent-State before the Trial Court would reveal that although it was alleged that transactions of ₹42 lacs had taken place, but as far as complainant is concerned, the only allegation made by him was that an amount of ₹2 lacs was deposited by his friend Prince in his account, which he could not withdraw.

5. Learned counsel for the petitioner has also drawn attention towards specific plea as taken by the petitioner to the effect that complainant and one Gopal were doing the business and all the money transactions were being done by them through HDFC account opened in the name of complainant. Not even a single transaction was done in cash and that all the transactions were done through UPI transfer, which fact can be easily verified through the bank statements, call details of the mobile and tower location etc.

6. Learned counsel for the petitioner contends further that mobile No.9718959798 as referred in the FIR is in the name of Gopal S/o Ashok and that petitioner had never used the same.

7. To the specific query put forth by this Court to learned State counsel, it is conceded by him that the petitioner is no longer required for custodial interrogation and that the case is based upon documentary evidence.

8. In view of all the facts and circumstances above, the order dated 14.06.2023, whereby the petitioner was granted interim anticipatory

bail, is hereby made absolute. However, he shall continue to join investigation, if and so required by the Investigating Officer.

Disposed of.

December 19, 2023

sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No