

CRM-M-41171-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41171-2023 (O&M)

Date of decision: August 25, 2023

Bhupender and another

....Petitioners

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Yashveer Kharb, Advocate for petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioners before this Court seek their release as undertrials in a case bearing FIR No.05 dated 21.04.2023, registered under Sections 66(e), 67(a) of the Information Technology Act, 2008 (for short 'IT Act') and Sections 388 and 419 of the Indian Penal Code (final report u/s 173 of Cr. P.C. filed under Sections 419, 420 and 384 of IPC), at Police Station, Cyber Crime Panipat, District Panipat.

2. Per prosecution version, the complainant, namely Krishan Chand, alleged that on 21.04.2023, some antisocial elements informed him that they possessed his obscene photographs of him with a girl. They threatened to expose him, stating that they would release the photograph on YouTube. Subsequently, the complainant received a call from a mobile phone number, with the caller claiming to be from the CBI office in Delhi. During the call, the caller claimed to have come across a photograph of the complainant with a girl and mentioned receiving a complaint regarding the matter. This caller provided the complainant with a phone number, and instructed him to contact an individual on that number to facilitate the removal of the photograph from YouTube. Under duress, the complainant transferred Rs.1,01,000/- to an account number provided to him. Still later, the complainant deposited an additional sum of Rs.6,06,000/- into two different accounts on 28.02.2023. On 01.03.2023, he deposited another amount of

Rs.15,50,048/- across three separate accounts. The complainant was thus subjected to blackmail and he sought police help. An FIR was registered. During investigation, petitioners were arrested on 12.05.2023.

3. Learned counsel for petitioners submits that petitioners have nothing to do with the alleged offence and no role has been attributed to them. Petitioners have not even been alleged to have received extortion money either directly or indirectly. He further submits that Narender, Parveen @ Monu and Zuber were running and managing the accounts in question, in which alleged money was deposited by the complainant. They are the prime co-accused, if at all. He refers to disclosure statement of petitioners, in this regard, appended with the petition as Annexures P-2 and P-3. Learned counsel further urges that petitioners have thus been falsely implicated in this case. He also submits that all the aforesaid principal co-accused are already in custody, and therefore, there cannot be any apprehension of tampering the evidence/ influencing the witnesses.

3.1. Learned counsel further urges that nothing is to be recovered from the petitioners and no useful purpose would be served by keeping them behind bars. Petitioners are not involved in any other case.

4. On the other hand, learned State counsel opposes the petition and submits that petitioners have committed a serious offence. Petitioners along with other co-accused have extorted a huge amount in connivance with each other. If enlarged on bail, there is every likelihood that they will commit similar offence and/or will flee from trial, and they might tamper with evidence or influence/intimidate the witnesses.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Allegations against petitioners are a matter of trial at this stage. On a Court query, learned State counsel, on instructions from SI Ajay Kumar, informs that challan was presented, but charges are not yet framed. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Whereas, petitioners have already been languishing in jail for the past more than 3 months, being behind bars since 12.05.2023.

7. Petitioners are being kept in preventive custody merely on an unfounded suspicion that if they are let out, they may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.
8. It is stated that petitioners are 24-26 year old young men at the crossroads of their career. Petitioner No.1 has a younger sister and added responsibilities of his old age parents to look after. Petitioner No.2 is the only son and also has an elder sister and parents to look after. Being family men and having fixed abode, it is unlikely that they pose any flight risk and/or will flee from trial proceedings.
9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.
10. Accordingly, petitioners are ordered to be released on bail, in case not required in any other case, on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where their cases are being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
11. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 25, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No