

CRM-M-46783-2022

2023:PHHC:111269

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

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CRM-M-46783-2022

Date of decision : 22.08.2023

Aseem Raina

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Onkar Batalvi, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

While issuing notice of motion, the following order was
passed on 12.10.2022:-

“This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in a case bearing FIR No.02 dated 02.09.2020 (Annexure P-1) under Sections 66-C & 66-D of Information Technology (Amendment) Act, 2008 registered at Police Station Cyber Crime, Panchkula District Panchkula.

The case of the prosecution is that the FIR has been registered for the incident where the complainant requested for enhancement in his credit card limit through net banking and after that someone called complainant claiming to be customer care executive of State Bank of India, thereafter, the said executive told complainant that he is going to process the enhancement of Rs.60,000/- and for this he needs customer consent and meanwhile he received message for spending Rs.60,000/- which was not done by the complainant. Later on, alleged amount

reflected back to the account of the complainant. According to the complainant, bank amount was deducted through PAYU gateway and amount was going to be transferred to Bandhan Bank account of Ms. Mohini Mahender Raina Memorial Trust.

Learned counsel for the petitioner contends that the father of the petitioner was founder member of the Trust who died on 11.05.2021 and the petitioner has no connection with the Trust at present. He further submits that the alleged amount of Rs.60,000/- has never been credited to the account of the petitioner and he has been falsely implicated in the case. He further submits that the petitioner always cooperated with the police during the inquiry and replied all the notices and no recovery is to be effected from the petitioner and, therefore, no custodial interrogation is required and no other case is pending against the petitioner and he is ready and willing to join the investigation.

The learned State counsel has opposed the prayer of anticipatory bail to the petitioner and sought dismissal of the same.

Notice of motion.

Ms. Gaganpreet Kaur, A.A.G., Haryana puts in appearance and accepts notice on behalf of the respondent-State.

Adjourned to 12.01.2023.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- 1) That the petitioner shall make himself available for interrogation by a police officer*

as and when required to do.

- 2) *That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.*
- 3) *That the petitioner shall not leave India without prior permission of the court.*

Reply, if any, be filed by the respondent-State.”

2. Today, learned State counsel, on instructions from SI Raghubir Singh, has stated that pursuant to the order dated 12.10.2022, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 12.10.2022 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

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7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

22.08.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No