

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-.-

CRM M – 50154-2023
Date of decision: 05.10.2023*Rasik Joshi**.....Petitioner**Versus**State of Punjab**.....Respondent***Coram: Hon'ble Mr. Justice Rajbir Sehrawat**Present: Mr. Vaibhav Narang, Advocate and
Mr. Naveen Kumar Mahajan, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

1) The present petition has been filed under Section 438 of the Code of Criminal Procedure, praying for grant of anticipatory/pre-arrest bail to the petitioner in case FIR No. 265 dated 26.08.2023, registered under Sections 420 and 120-B of the Indian Penal Code, at Police Station B Division, District Police Commissionerate Amritsar (Annexure P-1).

2) It is submitted by counsel for the petitioner that the case against the petitioner is totally false and concocted. The petitioner, in fact, is an employee of the complainant and working in his call centre, *namely*, Flash Call Centre. The complainant is having overseas transport business. As per the prevalent practices, the petitioner was being paid an additional commission beyond the standard salary, as an incentive to make extra efforts for boosting the business of the company. In his efforts, the petitioner had arranged a consignment for the vehicle of the complainant-company in United States, for a trip, in which otherwise, the vehicle of the complainant

would have gone totally empty. On that account, the complainant had earned extra money. Accordingly, the petitioner was paid only 10% commission on the said transaction value. Therefore, there is no criminality involved in the present case against the petitioner. It is only a business transaction in an ordinary routine. There is no other case against the petitioner. The petitioner shall join the investigation as and when called by the police. The petitioner deserves to be protected against his arrest.

3) Notice of motion.

4) Mr. Sandeep Singh, Additional Advocate General, Punjab accepts notice on behalf of the respondent – State. Ms Isha Goyal, Advocate accepts notice on behalf of the complainant.

5) It is submitted by counsel for the State, being instructed by ASI-Ashwani Kumar and being assisted by counsel for the complainant, that the money has been transferred to one Gourav Sharma, at the instance of the petitioner through login ID and password of the company. Counsel for the complainant has submitted that the said transaction was done by misusing the login ID and password of the company. It is also asserted that there was no arrangement for any commission as such. However, counsel for the complainant has not been able to controvert the fact that the petitioner had arranged an extra consignment for the vehicle of the complainant in USA, but for which, the vehicle would have gone empty from one destination to the other. It is also not disputed that the money was transferred to or at the instance of the petitioner, and that was not a part of the salary of the petitioner. Hence, even the issue of payment of commission to the petitioner is only a moot point.

6) In view of the above, but without commenting anything further on merits of the case, the present petition is allowed. In the event of arrest, the petitioner be released on bail, subject to his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

(Rajbir Sehrawat)
Judge

05.10.2023
mohan bimbura

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No