**2023:PHHC:134225**

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

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**CRM-M-50499-2023**
**Date of decision : 10.10.2023**

**Jagdeep** ...... **Petitioner**

**versus**

**State of Haryana** ...... **Respondent**

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Sajal Bansal, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

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**<u>PANKAJ JAIN, J. (Oral)</u>**

1. Prayer is for grant of pre-arrest bail in FIR No.25 dated 20.09.2023, registered for the offences punishable under Sections 66-C, 66-D of Information Technology (Amendment) Act, 2008 and Section 389 of IPC, 1860 (Sections 420, 467, 468 and 471 of IPC, 1860 added later on), at Police Station Cyber Crime Haryana, Panchkula, Haryna.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

> "Copy of the written is that one inquiry report received at Police Station Cyber Crime through complainant Jasbir Singh 1329/KNL against Nikhil Rathor, resident of House No. 508, Brahmpuri, Colony Ward No.1, Ambala, District Ambala and others for making fake website of NCRB and by frightening people extorting money and its complaint is received at Police Station and its summary are as under:- Respected Sir, it is submitted that through one official E Mail ID

dgmi4c@mha.gov.in received at this Cyber Police Station Haryana, Panchkula's official Mail ID shocyberpki.pol-hry.gov.in on 19.09.2023 at about 05:15PM "Analysis on BITB Attack on NCRB" for your perusal and necessary action. In which a suspicious Domain http://induslan.top/ was made in which the report of National Cyber Crime Threat Analytics Unit (NCTAU) is annexed. This site is exact like the domain of National Crime Record Bureau (NCRB) by misusing the computer technology of Browser in the browser (BITB) this crime has been committed. Apart from that in the analytic report of Home Ministry they also enclosed the debit card/QR CODE/ PAYMENT GATEWAY id Nikhil.rathour@paytm, banking detail, associated account link, active account link, paytm payment bank KYC Details, HDFC Bank AC detail etc are also enclosed. Further in this regard in the summary of these complaints has been shown on the NCRP portal, in which accused persons with the intention to defraud people used the fake website http://indastan.top/?eadxad in the name of showing porn website and by showing government website of NCRP's official website and by running a popup in illicit website trying to extort money from people. In which Rs.33900/- per person has been extorted from complainants via debit card/QR code or through UPI to their HDFC Bank and other banks. The moment consumer click on the link, the java scrip used on this website opened up on the full screen and on the background audio plays that 'through internet you saw the porn website, if you do not pay the fine then Police will take legal action against you'. By frightening through the official E

Mail ID of NCRB dgmi4c@mha.gov.in they show three options in fake domain to save from the police and legal action they demand Rs.33900/-. In first option; payment of fine through debit card, in second through QR code and in third through UPI ID Nikhil.rathour@paytm. In this regard these accused persons getting transferred the money in this UPI ID and thereafter transferred to the Account No.50100546766462 HDFC Bank. As per KYC this account belongs to Nikhil Rathor, resident of House No.508, Brahmpuri Colony, Ward No.l, Ambala. As per KYC detail this account is joined with mobile No.9996831371. That I personally checked the website of www.ncrb.gov.in on 19.09.2023 at 08:42PM and in real website there is not payment gateway, QR code or UPI ID belongs to Government of India for payment, its screen shot is enclosed herewith and the mail sent by 14C matched with fake website http://induslan.top, which reveals that this fake website is extorting money forcefully. From the detailed report of National Cyber Crime Threat Analytics Unit (NCTAU) it proves that through payment gateway, debit card/QR code accused Nikhil Rathor, resident of House to 508, Brahmpuri Colony, Ward No.1, Ambala, District Ambala committing phishing scam. For the registration of case against this Nikhil Rathor and others for committing the crime punishable under Section 66C, 660 IT Act, 389 IPC with the orders of senior officers case FIR No.25 dated 20.09.2023 under Section 66C, 66D, IT Act 389 IPC has been registered at Police Station Cyber Crime, Haryana, Panchkula and copy of the FIR along with original

> written kept by myself for further investigation. Copy of the first information report has been sent to the service of Illaqa Magistrate through dak/e mail and senior officers. Record has been maintained as per rules. As the CCTNS of ASI Jasbir Singh was not available the case has been registered in the CCTNS ID of ASI Raghbir Singh."

3. Status report by way of affidavit of Amit Dahiya, HPS, SP(Cyber)(H), Panchkula has been filed. The same is taken on record.

4. Qua the modus operandi of the accused, the same has been clearly spelled out in the status report filed today, wherein it has been demonstrated that money trails could be traced to the Paytm account of the petitioner. The account details revealed that approximately more than Rs.42 lakhs have been received in the said Paytm account bearing No.91996831371, IFSC Code PAYTM0123456 credited on 15.09.2020, at the address 600, Ward No-01, Near Sai Mandir Brahampuri Colony, Amabala which is the same address which finds mention on the Adhar Card of the petitioner which was also used by him to verify KYC.

5. In ***Gurbaksh Singh Sibbia vs. State of Punjab, 1980(2) SCC 565***, Apex Court has held that :-

> *"..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond.* <u>*There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a*</u>

> *reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail...."*

6. Likewise while reiterating the law laid down in ***Gurbaksh Singh Sibbia's case (supra)*** Apex Court in ***Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1*** held that :-

> *"(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it."*

7. As per settled law in ***C.B.I vs. Anil Sharma, 1997(7) 187*** there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.

8. The nature and the seriousness of the allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

9. Keeping in view the allegations levelled in the FIR and considering the wide sweep that such scams have, this Court does not deem it a case to grant indulgence in pre-arrest bail.

10. Resultantly, the present petition is dismissed.

11. Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

**(PANKAJ JAIN)**
**JUDGE**

**10.10.2023**
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No