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

CRM-M-56956-2023
Date of Decision:01.12.2023

Manish Sharma …Petitioner

Vs.

State of Haryana …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Harnoor Singh, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Mr. Sunil Kumar Dhanda, Advocate
for the respondent/complainant.

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N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 438 Cr. P.C with a prayer to grant of anticipatory bail in case FIR No.25 dated 18.08.2023, under Sections 120-B,406,419,420 of IPC registered at Police Station Cyber Crime, District Jind, Haryana (Annexure P-1).

2. The FIR in the present case was got registered by Seema Devi daughter of Jasmer Singh, resident of Village Harigarh Safidon, District Jind. As per her, she was working as Assistant Professor at Government Girls College, Safidon. She was maintaining a bank account No.914010008858631 in Axis Bank, Safidon Branch, Jind. She had received a call and the caller posted himself as an IRDAI officer and promised to refund her policy. After that another person called her from a new number and said that they had got filled a complaint form of IRDAI for refund of her policy, which was addressed to Chairman of IRDAI. They demanded a sum of Rs.25,500/- as fee for getting the

refund and told her that it was a refundable amount. Apart from that, she received calls from three different persons and they demanded fee on the pretext of GST, NOC, stamp duty etc. In this manner, finally she deposited a sum of Rs.30,22,508/- in three different accounts by way of 12 transactions. The phone numbers of the said persons were as follows:- 1. 8273231798 2.8171640857 3. 7454857385 4. 8171661856 5. 8273331285 and till the last day, they were in touch with her continuously. On 16.08.2023, she received a call from a person namely Anil and as per the true caller his name shown as Rahul Mathur. He told her that he was a sweeper and informed her that a fraud was being played by some persons from S.M Brokers, Noida, who pretended to the IRDAI Officer and he also asked her to give missed call on the landline number of RBI for getting back her money. In the meantime, she received a call from RBI and a person namely Parmod Gautam contacted her from his personal mobile number i.e. 8126712405 and convinced her that a refund release order of Rs. 68,05,000/- shall be issued to her, in case, she deposited a sum of Rs.6,30,000/- and Rs.8,00,000/- During that period, she also received a call from a lady namely Deepti Sharma from mobile No.7455949838. She also talked to her from landline number of RBI. She was also receiving calls from two mobile numbers 8126712405 and 9718584374. She stated that action may be taken against the financial fraud committed with her. On the basis of this complaint, the FIR was registered and the investigation formally commenced. With these main allegations, the FIR was got registered by the complainant in the present case.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and had no connection with the phone

numbers and the persons mentioned in the FIR. He further stated that during the course of investigation, co-accused Lakshay, Aman, Deepa, Doli, Vanshika, Fiza etc. were arrested and they suffered their disclosure statements and the name of the petitioner cropped up during the course of disclosure statement of the co-accused, which is wholly inadmissible. Learned counsel further contends that the petitioner has been wrongly projected as a king pin of the scam. If the petitioner was the king pin of the case, every accused would have named him in his respective disclosure statements. He further contended that neither the sim cards were purchased in the name of petitioner nor the money was deposited in the account of the petitioner and no specific role has been assigned to the present petitioner. It has been wrongly stated that the petitioner was the Manager/owner of the call centre, where young persons were hired, who induced people to part with their money. He further contends that in fact, the petitioner is the maternal uncle of co-accused Lakshay and has been falsely involved because of the said fact.

4. On the other hand learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner. Even a status report has been filed by way of an affidavit of Deputy Superintendent of Police, Jind Law and Order, District Jind on behalf of respondent-State and the same was taken on record.

5. Learned State counsel submitted that the investigation in the present case was got conducted by SHO, Police Station Cyber Crime, Jind. During the course of investigation, the records pertaining to various accounts were taken into possession by the police. Even the statements of the persons, in whose names the sim cards were purchased and the accounts were opened, were

joined in the investigation. On 20.08.2023, Arvind accused was arrested and he got recovered the sim card, which was used in the commission of crime. During the course of further investigation, Sunny Gupta, Salman Khan, Ashutosh and Parvesh were found to be involved in the present case. On 08.09.2023, on the basis of CCTV footage of C51-BSI Building, a search was conducted for the accused and Lakshay son of Vasudev Sharma, Aman son of Sanjeev Kumar, Deepa daughter of Mitra Pal, Doli daughter of Ajay Kumar, Vasika daughter of Shishu Pal, Fiza wife of Asfak and Sidrtun Nisha daughter of Mohammad Khurshid were joined in the investigation and the enquiry was made from them. Even they confessed about their roles in the crime and salary was paid to them by Lakshay and Saurabh. All the aforementioned accused were arrested on finding sufficient evidence against them. They also got recovered 23 mobile handsets, 01 laptop and 36 sim cards used in the commission of the offence. On 09.09.2023, during the course of investigation, Lakshay disclosed the names of Abhishek, Satish, Ombir, Manish (present petitioner) and other persons, who were also involved in the present crime. In pursuance of his disclosure statement, Lakshay also got recovered a sum of Rs.20,000/- out of the cheated amount. On 11.09.2023, another accused Satish Kesarwani were joined in the investigation and the enquiry was made from him and he was also arrested in the present case. On 30.09.2023, account statement of bank account No.100184562506, total 27 pages, received through email and on 04.10.2023, total pages 10 of HDFC Bank account No.50100638072763 and total page of Axis Bank account No.922010022631057 were taken in police possession through separate recovery memo. Further on 09.10.2023, during the course of investigation of the case on the basis of school record, the accused

Lakshay was found juvenile in conflict with law, being his date of birth as 18.12.2005. On 10.10.2023, account statement of bank account No.008801509711 of ICICI Bank from which the amount of cheating was further transferred to another bank account, total 02 pages and total pages 07 of Indian Overseas Bank account No.17830100005150 and KYC of this account total 07 pages were taken in police possession through separate recovery memo.

6. Learned State counsel further submitted that from the investigation conducted so far, it has been found that the petitioner/accused is the king pin of the racket of phishing, through which innocent people were induced to part with their money. It has also been established during the investigation that the accused Saurabh was owner of the call centre and the petitioner was also actively involved with Saurabh and they used to hire young people for making calls to the innocent people, induced them to pay money on the pretext of helping them to get the refund of their policies. They also procured sim cards in the name of some unknown persons and used to pretend that they were working with the Reserve Bank of India. Learned State counsel further contended that the custody of the petitioner was required and he was to be interrogated to know the involvement of other co-accused, to recover the balance amount, phones and various records related to the present case.

7. I have heard the learned counsel for the parties and perused the record.

8. The Hon'ble Supreme Court has held in the matter of ***P.Chidambaram Vs. Directorate of Enforcement, 2019(4) RCR (Criminal)875*** as follows:-

> "67 *Ordinarily, arrest is a part of procedure of the*

> *investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.FC, 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory ball to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory ball. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy".*

9. In the present case, the petitioner is one of the main accused, against whom serious allegations have been levelled by his co-accused. Even during the course of investigation, the police has found that the petitioner was actively involved in the commission of crime. Even he had deprived the complainant of a huge amount and had cheated several innocent persons at different places. Thus, keeping in view the gravity of the offence, the petitioner is not entitled to concession of anticipatory bail. Apart from that, the investigation against the present petitioner is yet to be started and the grant of anticipatory bail to the petitioner at this stage, may deprive the Investigating Agency of the useful information and also the evidence, which might have been concealed by the present petitioner. Thus, to conduct the investigation actively and to take the same to its logical end, in the considered opinion of the Court, the custodial interrogation of the petitioner is required and present petition is

ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

01.12.2023
hitesh

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