

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

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**CRM-M-62778-2023
Date of decision: 14.12.2023**

AJIT SINGH

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Ashok Arora, Advocate
for the petitioner.

KULDEEP TIWARI. J.(Oral)

Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of his being enlarged on anticipatory bail, in case FIR No.858 dated 20.11.2023, under Sections 384, 448 and 120-B of the IPC, registered at Police Station Azad Nagar, District Hisar.

The brief allegations as culled out by the learned Additional Sessions Judge, Hisar, while declining the prayer of pre-arrest bail of the petitioner, is extracted here as under:-

Filtering unnecessary details, the case of the prosecution is that complainat Ram Avtar moved an application revealing therein that his brother-in-law Kapil son of Heera Singh had rented out his house located In Azad Nagar, Hisar to Deepak and Komal Komal and Deepak were constantly evading the payment of rent. When Kapil asked them to pay the rent, Komal got lodged FIR No.789 dated 18.10.2023 under Section 354-B IPC at P.S.Azad Nagar, Hisar against him. On 19.10.2023 Komal got another FIR registered against Suman and Poonam bearing No.790 dated 19.10.2023 under Section 323,506/34 of IPC at P.S.Azad Nagar. Both the FIRs were lodged with the motive to usurp the property and to extort money. On 20.10.2023, his brother-inlaw Kapil got a call from Sunil Dealer, who told him that their cases could be resolved by Ajit Yadav. He

also passed on mobile number of Ajit Yadav to him and asked him to have a word with Ajit Yadav. Thereafter, Kapil received multiple calls from Ajit Yadav on his phone, but he did not attend his calls. Thereafter, Kapil and Ajit Yadav had telephonic conversation on whatsapp and met in person. Ajit Yadav initially demanded Rs.5,00,000/- and thereafter, settled for Rs.3,00,000/- to resolve the matters. Ajit Yadav runs a racket of extorting money from the people alongwith Komal and Deepak. With these allegations, he ultimately prayed to take legal action against the accused.

Alongwith the application, Ram Avtar presented a pen drive containing their conversation. Thereafter, these parties join independent person DEO, Hisar. A raiding party was constituted. Thereafter, Ram Avtar informed the police party that he called up Ajit Yadav to pay the agreed amount. Since, Ajit Yadav was not available in the city, he had asked to make the payment at Shop No.16, Anaj Mandi, Sector 14, Gate No.2 in front of Ganesh Sanitary. He also informed that Ajit Yadav refused to take money himself. Complainant also informed that since the accused was not ready to accept the money, raid would not be successful and sought 2-3 days time. Thereafter, on 8.11.2023, Ram Avtar presented an application and made a statement that action may be taken on his application and evidence tagged alongwith the application. After discussion with the senior police officials, the FIR under Section 384,448,120-B of IPC was registered. SI Ramesh Kumar collected the call details from the cyber cell which confirmed the conversation between Ajit and Sunil and Sunil with Kapil. The recovery of phone is to be affected from the accused.

Learned counsel for the petitioner submits that the allegations are absolutely false, as he is only a businessman and has nothing to do with the alleged crime. However, even if we consider the allegations as a gospel truth, no offence whatsoever, under Sections 384, 448 and 120-B of IPC, is made out. Learned counsel for the petitioner further submits that there is no transfer of any currency, therefore, the custodial interrogation of the petitioner is not required for any recovery.

Notice of motion.

Mr. Chetan Sharma, DAG, Haryana, waives service of notice on behalf of the respondent-State of Punjab.

Mr. Jainainder Saini, Advocate waives service of notice on behalf of the complainant, and has opposed the asked for relief of pre-arrest bail to the petitioner, and submits that the present petitioner has involved the relatives of the complainant, in a false FIR, in order to extract the money.

Be that as it may, since the issue whether the allegations as alleged, attract the penal provisions, under which the instant FIR is registered, is a debatable issue.

This Court deems it appropriate to grant the relief of pre-arrest bail to the petitioner. The petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so, and to fully cooperate with the Investigating Agency. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bond to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C. The mobile phone, which is required by the Investigating Agency shall be forthwith handed over to the Investigating Officer by the petitioner.

The instant petition is allowed. However, in case the petitioner does not cooperate with Investigating Agency, the State has the liberty to re-access this Court, under the relevant provisions for cancelling the relief of pre-arrest bail granted to the petitioner.

14.12.2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No