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

CRM-M-20432-2024
Date of Decision: 16.05.2024

Nitin Chauhan .....Petitioner

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gautam Kaile, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Rakesh Dhiman, Advocate and
Mr. Abhimanyu Kalsi, Advocate for the complainant.

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HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 438 Cr.P.C., prayer has been made for grant of anticipatory bail to petitioner in FIR No.149 dated 14.04.2023 registered under Sections 406 and 420 IPC at Police Station DLF, District Gurugram, wherein he has been implicated with the allegations of having defrauded the complainant for a sum of Rs.6 lakhs under the pretext of offering him investment in the insurance policy.

2. Learned counsel for the petitioner submits that earlier also with similar set of allegations, a complaint was filed at the instance of same complainant, which was converted into FIR No.960 dated 15.11.2017 registered under Sections 406, 419, 420 IPC at Police Station DLF Gurugram and thus, complainant was in habit of making such complaints. No further argument has been addressed.

3. On the other hand, prayer made herein has been opposed at the instance of learned State counsel assisted by learned counsel representing the complainant while submitting that in the previous FIR the allegations were pertaining to fraud of 2015-2016, whereas, in the present FIR complainant was defrauded in the year 2017.

He further submits that during investigation it was duly verified that the mobile number from which complainant received the call in relation to fraud played upon him belonged to the petitioner. He also submits that in the present case, the stand taken by the petitioner is that he merely happens to be an employee of Dignity Pvt. Ltd., whereas, upon verification it has been found that no firm in such name exists.

Learned State counsel further submits that an amount of Rs.6 lakh, which was deposited by the complainant was misutilized by petitioner by using the bank account belonging to one Rajender Nath Mishra, who even lodged FIR No.424 dated 312.12.2021 under Sections 419, 420 and 406 IPC at Police Station Cantt, District Prayagraj, Uttar Pradesh against petitioner.

4. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

5. In the present case, complainant is a retiree of 65 years of age and has been duped of his life-long earnings-savings under the pretext of issuance of some insurance policy by the petitioner. The facts and circumstances of the case speaks volume about the direct role of petitioner in defrauding the complainant as mobile number from which complainant received calls regarding inducement about making of investment in insurance policies belonged to him, besides the fact that the averments made

by petitioner as regards he being an employee of Dignity Pvt. Ltd. have been found to be false as per reply dated 15.05.2024 filed at the instance of investigating agency, wherein, it has been clearly mentioned that no such firm ever existed at the particulars pointed out by petitioner. Moreover, registration of one another FIR at the instance of complainant against some other person having played fraud cannot be a ground to grant pre-arrest bail.

6. Moreover, such kind of online frauds are increasing day-by-day wherein innocent individuals are being deceived in order to extract undue financial gains which are potentially affecting their financial, economical and social stability. These incidents are even diminishing the general public trust in the online/digital banking transactions, resulting into huge economical loss to the Nation at large. Moreover, such kind of fraud through economic transactions are definitely going to result in long term economical as well as emotional distress to the victims and may also encourage the dishonest intents of such perpetrators. In such circumstances, the custodial interrogation of the petitioner is essential in the interest of public at large so as to unearth the *modus operandi* adopted by him in online fraud/cyber crime which definitely and essentially results in breach of privacy of the complainant.

7. Thus, in the given facts, the petitioner does not deserve the discretion of anticipatory bail. Reference in this regard can also be made to a decision rendered by the Hon'ble Apex Court in case of ***"Srikant Upadhyay & others vs. State of Bihar and another"*** reported as 2024 INSC 202. Relevant paragraph No.8 of the said judgment is reproduced hereunder:-

> *"It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last*

option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in HDFC Bank Ltd. v. J.J.Mannan & Anr.)"

8. Resultantly, the present petition is thus, dismissed being devoid of merits.

16.05.2024 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether speaking/reasoned: yes/no
Whether reportable? yes/no