

212

2024.PHHC.110999



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

**CRM-M-22778-2024(O&M)
Date of Decision: 22.08.2024**

AMIT RAM THADANI

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Rish Kapoor, Advocate and
Mr. Eklavya Gupta, Advocate,
for the petitioner.

Mr. Bhupinder Singh, DAG, Haryana.

Mr. Sanjeev Majra, Advocate,
for the complainant.

KULDEEP TIWARI, J.(Oral)

1. Having apprehension to be arrested in case FIR no.653, dated 28.12.2022, registered under Sections 406, 420 and 120-B of the IPC, at Police Station City, District Kurukshetra, the petitioner has filed the instant petition under Section 438 Cr.P.C.seeking the relief of pre-arrest bail.

2. The instant FIR has been registered on a complaint made by one Parvinder Singh son of Jasbir Singh, against 12 persons alleging therein, that one Ammy (who arraigned as accused no.1 in the FIR), through whatsapp message contacted the complainant, telling that she is

in from Singapore, and is working with a company namely Honor Gold, and having its office in Mumbai, and she is on the post of Gold Analyst in the said company. She further informed the complainant that she gets people to invest in gold, and sells the gold when the rate increases, and all the record of the company is available online, and in case the complainant invests with them, he will get the huge profit. On the allurement of said Ammy, the complainant deposited about Rs.1 lakhs in the account of the company. After sometime accused Ammy informed the complainant that his invested amount of Rs.1 lakh has gone due to loss. She further consoled the complainant and advised him that in case he wanted to recover the loss, he can download another App, i.e. Meta Trade-3, and Binance, and further, allured that in case the complainant makes investment of Rs.15 lakhs through the said platform (App.), he will get a profit of Rs.5 lakhs, due to a castle made in the air by accused Ammy, the complainant transferred money in the various accounts as informed by her, and on dated 03.08.2021, the complainant transferred an amount of Rs.3.00 lakhs, from his account, to the account no.59200017666666, belonging to Mr.Amit Ram Thandani (present petitioner). The complainant transferred about Rs.14 lakhs on various occasions. Finally, when the complainant asked Ammy to return the amount of Rs.14 lakhs, then she advised him to contact on the other mobile number, and when he contacted the accused no.2-Sameer Mehar, he told him that he would be charged Rs.1,78,500/-, and then he will return his money. Despite making payment the above amount as asked by

accused no.2-Sameer Mehar, he did not do the needful, rather the accused again asked the complainant to give more money, for which the complainant refused. In this way the accused no.1-Ammy, alongwith other co-accused embezzled on account of Rs.15,78,000/-.

3. On the basis of the above complaint, the instant FIR was registered and the investigation was carried out.

4. Learned counsel for the petitioner in asking for the relief of pre-arrest bail, submits that petitioner is a part-time trader, and has no relation whatsoever, with the co-accused. The crypto-currency purchased by the complainant from the petitioner by using online application i.e. Binance platform/App. is still lying in his Binance account. However, the complainant instead of withdrawing his money from the said App./Account, has got registered the present FIR.

5. He further submits that after registration of the FIR (*supra*), for about 15 months no action was taken, and now suddenly the petitioner has been served with two Section 41-A notices within a span of one month.

6. He also submits that the petitioner has already provided every detail possible pertaining to the alleged transaction, and no purpose would be served in case the petitioner is arrested.

7. On the other hand, learned State counsel has vociferously opposed the grant of asked for relief (*supra*) to the petitioner, on the ground that the petitioner is involved in online fraud, and investigation in the case is at initial stage, and for the recovery of disputed amount,

custodial interrogation of the petitioner is required, to reach a logical conclusion.

8. The matter was heard at length on dated 24.05.2024, and during the course of arguments, learned counsel for the petitioner submits that the petitioner being a trader, only sold his crypto-currency to the complainant, and all the money belonging to the complainant is safe and secure at Binance platform/App., and the only procedure required to be adopted by the complainant for retrieving his money is to login into his account, whereupon, he can transfer his money therefrom, into his KYC account, but after making payment of GST and TDS, as required by the governing law. He over and above submitted that the petitioner can help the complainant in case he has forgotten his login ID and password, to retrieve the same, and subsequently, for transferring the money in the KYC account of the complainant. The relevant extract of the order reads as under:-

“1. At the very outset, the learned counsel for the petitioner submits that, the petitioner had, being a trader, only sold his cryptocurrency to the complainant. In fact, the money, which has been invested by the complainant on Binance Platform, is safe and secure. The only procedure required to be adopted by the complainant for retrieving his money, is to login into his account concerned, whereupon, he can transfer his money therefrom into his KYC account, but after making payment of G.S.T. and T.D.S., as required under the governing law.

2. Furthermore, the learned counsel for the petitioner submits that, in case the complainant has forgotten his login id and password, the petitioner is ready and willing to extend every possible help to the complainant, in the presence of the investigating officer, thus for regeneration of the password and subsequently, for transferring the money in the K.Y.C. account of the complainant.

3. Although this Court cautioned the learned counsel for the petitioner that, in case the submissions made by him are found to be incorrect, stringent action would be taken against the

petitioner, however, the learned counsel for the petition maintained his stand and assured that the procedure, as stated above, is the only mode for retrieval of complainant's money.

4. The learned counsel appearing for the complainant submits that the proposal made by the petitioner is acceptable to him.

5. In view of the above, the petitioner as well as the complainant are directed to record their respective personal appearances before the investigating officer on 03.06.2024, at 11:00 a.m., whereupon, the petitioner shall, as per the submissions/ assurance made hereinabove, help the complainant to retrieve his money from the Binance Platform.

6. The learned State counsel is directed to inform the investigating officer to remain present in the Police Station concerned on 03.06.2024, at 11:00 a.m., for the above cited purpose. Thereafter, the investigating officer shall file a status report, on or before the adjourned date.

7. List on 17.07.2024.

8. In the meantime, in the event of petitioner's arrest, he shall be admitted to interim bail on his furnishing bail bonds 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."

9. In view of aforesaid submissions, this Court vide order dated 24.05.2024, directed the complainant as well as the petitioner, to cause their respective appearance before the investigating officer on dated 03.06.2024 at 11:00 a.m. The petitioner was directed as per his assurance (*supra*), to retrieve the money from account of the Binance platform/App.

10. Besides, this Court has categorically questioned the petitioner that in case his aforesaid submissions were found incorrect, stringent action would be taken against him for giving false assurance to this Court.

11. Thereupon, a status report dated 15.07.2024, was filed by the State, by way of an affidavit Mr.Om Parkash, DSP City, Kurukshetra. As per the status report, it reflects that though the petitioner had joined the investigation, but did not co-operate with the investigating agency. He

totally failed to co-operate with the father of the complainant, to retrieve the disputed amount. The petitioner himself admitted that he had freezed the account of the complainant, but now he could not succeed to de-freeze the said account. Further he sought some more time to de-freeze the account of the complainant, and submitted that as and when account will be defreezed, he will himself appear before the police. However, till today the petitioner has neither put his appearance before the police, nor has given any intimation regarding defreezing of the account of the complainant.

12. From the status report (*supra*), it clearly reflects that the petitioner, firstly, allured the complainant to invest more than Rs.15 lakhs throught the Binance platform/App. which is totally unknown to him, and even before this Court the petitioner made a false assurance that he can retrieve the money of the complainant from the so called Binance platform/App., but upon joining investigation he did not co-operate with the investigating agency. It further reflects from the perusal of the status report that the petitioner was served with two notices under Section 41-A Cr.P.C., but he did not respond to the same by joining investigation again.

13. In view of above, considering the conduct of the petitioner and there being a specific allegation which is supported by the documentary evidence, that the complainant was allured to transfer the money in the account of the present petitioner, and the petitioner had failed to co-operate with the investigating agency, so as to retrieve the money of the complainant, from so called Binance platform/App., this

Court is not inclined to grant the relief of anticipatory bail to the present petitioner.

14. Consequently, the instant petition is **dismissed**.
15. All pending application(s), if any, also stands disposed of.

August 22, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No