IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102 CRM-M-28029-2024
Date of Decision : **September 19, 2024**

SARANKANTHA BYRAPUR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sahil Chandra, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl.AG, Haryana and
Mr. Bhupender Singh, D.A.G., Haryana.

Mr. Kunal Dawar, Advocate
for the complainant.

KULDEEP TIWARI, J. (Oral)

1. Learned State counsel submits that now the offences under Sections 419, 467, 468, 471, 216 IPC have been added in the FIR No. 40 dated 29.3.2024, under Sections 420, 120-B IPC, registered at Police Station Cyber Crime Central, Faridabad.

2. On the oral request of the learned counsel for the petitioner, the offences under Sections 419, 467, 468, 471, 216 IPC are ordered to be added in the head note as well as in the prayer clause of the instant petition.

3. The Registry is directed to carry out the necessary correction in the head note as well as in the prayer clause of the instant petition.

4. Through the instant petition filed under Section 438 of Cr.P.C., prayer is made for grant of anticipatory bail to the petitioner in case FIR (supra).

5. Learned counsel for the petitioner in the asking for the relief (supra) submits that the name of the petitioner does not figure out in the instant FIR. He further submits that the petitioner is only a Chartered Accountant and on the asking of one Shashi and one other person, who otherwise have not on the list of the Board of Directors of the Company in question, have facilitated the registration of the company, namely, Yuodo Pvt. Ltd. And Calmchamp Technology Pvt. LTd. He also submits that his limited role was just to ensure the statement of compliance in the incorporation of the companies. There is no allegation that he ever induced the complainant to part with duped money or he is the beneficiary of the cheated amount. He further submits that an amount of Rs.15,326/-, has been received in his account for providing his services as C.A. He also submits that the digital signatures of the Director, which are used for the purpose of registration of the company are found to the genuine during investigation, therefore, there is no illegal act committed by the present petitioner. No further argument has been raised by the learned counsel for the petitioner.

6. It is a classic case of cyber fraud, where the complainant has been duped for Rs.7,59,00,000/- and as on date out of total 21 accused, who are involved in such a large scam, 16 accused have already been arrested by the prosecution agency.

7. The prosecution agency was set into motion on a complaint made by Priyanshi Gupta, wherein, she alleged that she is trading in the share

market for the last two years and one day, she received an investment link of share market on facebook. That link infact allured the complainant and reflects that number of persons getting huge benefit by investing the money and subsequently, she received an invitation from the WhatsApp group (C6 Ram Investment Academy). Thereafter, Kareena Rajput, who is stated to be an admin of the said WhatsApp Group, which is said to be an official group of ICICI IR Tram and did send a URL link and thereafter they opened her account in IC Organ Max app from her mobile number. The complainant was further advised/allured to invest Rs.60 lacs in the said account. Through the said WhatsApp group, the complainant was made/allured to invest in the share market through various private accounts of two companies, namely, Yuoduo Pvt. Ltd. and Calmchamp Technology Pvt. Ltd. The relevant extract of the FIR reads as under:-

> *"On 4.1.2024, she clicked a link of share market on the facebook and thereafter, she joined the WhatsApp group named "ICICT IR Tean (57). Till 18.3.2024 she kept watching the facebook and she saw that the money invested in the above mentioned group was getting huge profits. After that, she joined another WhatsApp group "CóRam Investment Academy". Thereafter, ICICI IR Team (57) Group Admin Kareena Rajput sent her a URL link 'https://app.yisjds.com/" and created her account in an App named IC ORGAN MAX opened in her mobile no.7678471081. After that she logged in to the App with her above mentioned mobile number and joined it. The above named Kareena Rajput suggested her through WhatsApp nos. 7249021858 and 7249650533 that she should get the bank details from their customer service for adding funds. On 19.3.2024 Indusind Bank account no.259662465407 IFSC Code INDB0000844 of Krishna Enterprises was sent on the said customer service and got invested Rs.1,00,000/- from her in the said account. On 21.3.2024 Indusind Bank account no.259547657841 IFSC Code INDB0001013 of CALMCHAMP TECHNOLOGY PRIVATE LIMITED was sent and asked her to invest Rs 60,00,000/- in the said account and got invested the above said amount of Rs.61 lakhs in the share market from her ICICI Bank account no.777701178200 and by sending A URL link*

https://www.techstars.shop/#/register? Agent Code Mi597915, her account was opened in App named Techstars.shop on her mobile no.76784710181 and after that she joined it. After that SBI Bank account no.00000042665322690 IFSC Code SBIN0000300 of Swami Samarth Traders was sent and got invested Rs.3 lakhs from her father's ICICI bank account no.777701819900. After that on 26.3.2014 SBI Bank account no.00000042727214212 IFSC Code SBIN0021870 of Yuoduo Private Limited was sent and they got invested Rs.80 lakhs in the share market from her account no.777701178200. Thereafter, Rs.90 lakhs were got invested fraudulently from HDFC Bank account no.591030900090000, Rs.15 lakhs from HDFC Bank account no.59103080008000 in the name of Yuoduo Private Limited and Rs.10 lakhs from IDFC Bank account no.87500500995. On 27.3.2024, again got invested Rs.20 lakhs from HDFC Bank account no.777701178200 Rs. 4 crores from HDFC Bank account no.50200064005701 of her father and Rs.80 lakhs in the share market from HDFC bank account no.59103090009000 were also got fraudulently invested in share market. In this way, cyber crime for an amount of Rs.7 crores 59 lakhs was committed with her."

THE GIST OF THE INVESTIGATION

8. After registration of the FIR, the investigating agency collected the details of the said bank accounts and their beneficiaries. The record of above mentioned two companies, was also obtained from ICICI bank. The APP ICICI IR Team, IC Organ Max and the logo of ICICI were found to be forged and the accused were found to have committed the fraud by posing as fake ICICI bank officials. During investigation, accused Prashant Kumar was arrested. In the meanwhile, the Commissioner of Faridabad constituted an SIT vide administrative order dated 12.4.2024. Thereafter number of other persons were arrested.

9. It is important to note here that one of the accused Sayyed Suhail got recovered Rs.20,000/- in cash and also got recovered **314 Airtel sim cards**. Further one of the main accused, namely, Swadesh Verma was

arrested on 24.6.2024 from Nepal, with the help of intelligence agency of the country, who suffered a disclosure statement and during the police remand, he got recovered about Rs.43,46,000/- out of his share of Rs.5,22,00,000/-. Thereafter again the Commissioner of Police concerned constituted an SIT comprising DCP, Central Faridabad, ACP Cyber Crime, Faridabad, SHO, Police Station Cyber Crime Central, Faridabad, P/SI Praveen, Police Station Cyber Crime, Ballabgarh, Faridabad, P/SI Pawan Tomar, Police Station Cyber Crime, Central, Faridabad and Ishan Singh, Cyber Expert. During investigation, the role of the present petitioner surfaced and mentioned in the reply, which reads as under:-

> "**Role and Criminal Antecedents of the Petitioner**:-
>
> *i) The petitioner Sarankantha Byrapur, while registering the companies namely Yuoduo Pvt. Ltd. and Call Champ Technology Pvt. Ltd. did not verify regarding the physical existence of the said companies and also, he did not conduct any verification regarding the Directors of the said companies. Mr. S. Manoj Kumar (one of the person shown as the Director in the above mentioned companies), was contacted by the P/SI Pawan Kumar, investigating officer, and he told that neither he knows Sarankantha Byrapur (present petitioner) nor he ever met him. He (S. Manoj Kumar) never signed Form DIR-2 or any document and the documents produced by the above named companies do not bear his signatures. This goes to show that the petitioner registered the company at his own without making any actual verification regarding the physical existence of the company and regarding the Directors. This shows the malafide intention of the petitioner. The said companies Calmchamp Technology Pvt. Ltd. and Yuoduo Pvt. Ltd. were involved in the present fraud and a sum of Rs. 7.55 crore was received in the bank account of these companies.*
>
> *As per available record, the petitioner has not been found to be involved in any other case. Thus, no other criminal antecedents of the petitioner have been found.*"

10. During further investigation, the efforts were also made to find out the traces of the cheated amount and it has surfaced that approximately Rs.3.5 Crores have been found to be further credited in as many as 82 accounts by way of almost 100 different transactions.

11. This Court has considered the rival submissions made by the learned counsel for the parties concerned and is of the view that the petitioner does not deserve the relief of anticipatory bail for the reasons that it is the petitioner, who facilitated in creation of the two companies for the purpose of siphoning the entire cheated amounts. These companies were created in the months of December 2023 and January 2024 respectively and immediately thereafter they duped the present complainant. During investigation, Mr. S.Manoj Kumar, (one of the person to be shown as the Director in the abovesaid companies) was contacted by P/SI Pawan Kumar, (member of the SIT) and he informed that he neither knew the present petitioner nor he has ever met him. He further submits that he has never signed Form DIR-2 or any other document and the documents produced by the above named companies do not bear his signatures. This goes to show that the petitioner registered the company on his own, without making any actual verification regarding the physical existence of the company and the Directors. It is further apt to mention here that now the Directorate of Enforcement, has also started investigation on the basis of the present FIR, being the predicate offence.

12. Gainful reference in the above regard can be made to ***"Sushil Singla v. The Serious Fraud Investigation Officer", (2022:PHHC:136677),***

wherein, this Court has held that economic offences, being against the Society at large, are required to be strictly dealt with, as such offences affect the sovereignty and integrity of the country. The relevant portion of this judgment is reproduced hereinafter:-

> *"The economic offences, being against the Society at large, have been strictly dealt with in the recent past. Very recently, the Hon'ble Apex Court in* ***Vijay Madanlal Choudhary & Ors. V/s Union of India & Ors.*** *(2022 SCC OnLine SC 929), while considering the constitutional validity and applicability of restrictive conditions of bail provided under Section 45 of the Prevention of Money Laundering Act, 2002, has held that money laundering is an offence against the sovereignty and integrity of the country."*

13. The Hon'ble Supreme Court, in case titled as ***"P. Chidambaram vs. Directorate of Enforcement", (2019) 9 SCC 24,*** while dealing with economic offences, has held that the power of anticipatory bail should be sparingly exercised in economic offences. The relevant extract of this judgment is reproduced under:-

> *"77. After referring to Siddharam Satlingappa Mhetre and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in Jai Prakash Singh v. State of Bihar, the Supreme Court held as under: (SCC p.386, para 19)*
>
> > *"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.*
>
> *Economic Offences*
>
> *78. Power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In Directorate of Enforcement v. Ashok*

Kumar Jain, it was held that in economic offences, the accused is not entitled to anticipatory bail.

XXX XXX XXX

83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.

84. In a case of money-laundering where it involves many stages of "placement", "layering i.e. funds moved to other institutions to conceal origin" and "interrogation i.e. funds used to acquire various assets", it requires systematic and analysed investigation which would be of great advantage. As held in Anil Sharma, success in such interrogation would elude if the accused knows that he is protected by a pre-arrest bail order. Section 438 CrPC is to be invoked only in exceptional cases where the case alleged is frivolous or groundless. In the case in hand, there are allegations of laundering the proceeds of the crime. The Enforcement Directorate claims to have certain specific inputs from various sources, including overseas banks. Letter rogatory is also said to have been issued and some response have been received by the Department. Having regard to the nature of allegations and the stage of the investigation, in our view, the investigating agency has to be given sufficient freedom in the process of investigation. Though we do not endorse the approach of the learned Single Judge in extracting the note produced by the Enforcement Directorate, we do not find any ground warranting interference with the impugned order. Considering the facts and circumstances of the case, in our view, grant of anticipatory bail to the appellant will hamper the investigation and this is not a fit case for exercise of discretion to grant anticipatory bail to the appellant. (emphasis supplied)"

14. The view (supra) was reinforced and reiterated by the Hon'ble Supreme Court in ***"Serious Fraud Investigation Officer V/s Nittin Johari and another", (2019) 9 SCC 165,*** wherein, it set aside the order of High Court of Delhi granting bail to the accused therein and held that "*...it is necessary*

to advert to the principles governing the grant of bail under Section 439 of the Cr.P.C. Specifically, heed must be paid to the stringent view taken by this Court towards grant of bail with respect of economic offences.....”

15. In view of the above discussion, the instant petition is, hereby, **dismissed**.

(KULDEEP TIWARI)
JUDGE

September 19, 2024
ajay-1

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