

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-32090-2022
Date of decision : 19.03.2024

Niranjan Nivaruttinath Bhalivade

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.P.S. Sidhu, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. Sunil Chadha, Sr. Advocate with
Mr. Raghav Chadha, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 26.07.2022, following order was passed:-

“The learned counsel for the petitioner has submitted that in the present case, the petitioner has been falsely implicated. He submitted that as per the allegations contained in the FIR, the petitioner was appointed as a CEO in the company, namely, Trident Group on 9.10.2017 and he remained in the service of the company only 24.1.2018 which was only 3 months and he resigned from the company on 24.1.2018. As per the allegations, the petitioner absented himself willfully during the month of January and he had taken away the Laptop, I-pad, I-card and official sim card of the company alongwith him and apart from the same, there were allegations against him by another employee of the company with regard to outraging the modesty and

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regarding which separate FIR was lodged in the year 2018. The subject matter of the present petition was only pertaining to Section 408 IPC. He submitted that so far as the aforesaid four items which are stated to be with the petitioner are concerned, the petitioner is not in possession of the same and he had returned back the i-pad, i-card and official sim card by way of courier and so far as the i-pad is concerned, the same has not been disputed by the company itself. He further submitted that so far as the laptop is concerned, the same was also in the office when he left the premises for the last time and the same is also in the possession of the company. He submitted that so far as the i-card is concerned, the same was also sent back to them but there is no possibility of misuse of the same since he has already resigned from the company and so far as the official sim card is concerned, the company could have always blocked the same since it was issued by the company. He submitted that the FIR was registered in the year 2018 and it is almost more than 4 years that there is no evidence to show at all that any data of the company in the laptop or any other secret confidential information, if any, have been either leaked or shared by the petitioner to anybody else for over a period of 4 years. He further submitted that when the present FIR was lodged against the petitioner, he was sent notices by the police for joining the investigation but since an employee of the same company has lodged another FIR under Section 354-A IPC vide Annexure P-2 he could not join the investigation and rather it was only in the year 2022 that he was granted interim bail by the Sessions Court. He further submitted that in view of the aforesaid circumstances the petitioner was not able to join the investigation. He further submitted that be that as it

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may, the petitioner is ready and willing to join the investigation as and called by the IO. He has also submitted that the petitioner is a Computer Engineer and MBA and has unblemished record of 27 years of working in various companies and the present FIR was totally on the basis of a concocted story by the complainant.

Notice of motion.

Mr. Davinder Bir Singh, DAG, Punjab accepts notice on behalf of the State of Punjab and prays for some time to seek instructions.

Mr. Sunil Chadha, Sr. Advocate assisted by Mr. Akshay Chadha, Advocate has also made submissions. He submitted that so far as the i-pad is concerned, the same was returned by the petitioner through courier and the same was deposited with the police. So far as the issue of laptop is concerned, the learned counsel for the petitioner has submitted that the same is already with the company but the same fact has been denied by the learned counsel for the complainant. He has, however, opposed the grant of anticipatory bail to the petitioner on the ground that there is every possibility that the petitioner may misuse the confidential data of the company and, therefore, the custodial investigation of the petitioner is required. He further submitted that earlier the petitioner did not join the investigation deliberately and, therefore, he is not entitled for the grant of anticipatory bail.

On a specific query being asked by this Court to both the learned counsel for the State as well as to learned Sr. counsel for the complainant as to whether for the last 4 years, there is any evidence to show that the petitioner has misused or has shared the data with anybody else, they have not been able to justify

anything in this regard in view of the fact that both the i-pad and laptop are password protected and unless the same are given to the police, the data cannot be extracted.

The complainant shall be at liberty to file an affidavit before this Court, if so desired and required.

The learned counsel for the petitioner has specifically submitted on instructions from the petitioner that the petitioner undertakes to join the investigation whenever he is called by the police and he has also specifically undertaken to cooperate with the investigation process.

Adjourned to 18.1.2023.

In view of the above, the petitioner is directed to join the investigation and on his doing so, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

2. There was dispute with respect to handing over the laptop.

3. On 18.01.2023, following order was passed:-

“Learned State counsel, on instructions from ASI Sukhdev Singh, submits that i-pad and laptop have been recovered and offence under Section 201 IPC has also been added subsequent to the registration of the FIR.

Learned counsel for the petitioner seeks adjournment to move an appropriate application for addition of offence under Section 201 IPC.

Learned Senior Counsel for the complainant has sought to dispute the fact of recovery of laptop and seeks adjournment to furnish affidavit of the complainant depicting the loss which has occurred to the

complainant on account of alleged misuse of data which was stored in the laptop and which remained in the custody of the petitioner.

Adjourned to 24.05.2023.

Interim order to continue.”

4. Thereafter on 25.01.2024, following order was passed:-

“Learned State counsel on instructions from ASI Krishan Lal submits that the petitioner though directed by this Court to join investigation has not yet joined investigation.

Learned counsel for the petitioner joins issue on the same and submits that the petitioner indeed joined as and when called and is still willing to join the investigation.

Keeping in view the divergent stands taken by the learned counsel for the parties, the petitioner is directed to appear before the Investigating Officer on 21.02.2024.

Adjourned to 19.03.2024.

Interim order to continue.”

5. State counsel, on instructions from ASI Satnam Singh, submits that pursuant to order dated 25.01.2024, the petitioner has joined investigation and has also handed over the laptop on 01.03.2024.

6. Mr. Chadha, however, submits that the fact that laptop has been handed over by the petitioner on 01.03.2024 falsifies his initial stand and further submits that there is loss running into crores of rupees which has been caused by the petitioner to the complainant owing to transfer of data.

7. In the considered opinion of this Court, the aforesaid issues will be matter of trial. It is not disputed that the petitioner has joined investigation and has also cooperated.

8. In view of above, the interim order dated 25.01.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
9. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
10. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.
11. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
12. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
13. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
14. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

19.03.2024

Dinesh

Whether speaking/reasoned :
Whether Reportable :

Yes
No