IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.207

Case No. : CRM-M-30748-2024 (O&M)
Decided On : September 24, 2024

Shivam Gupta .... Petitioner

vs.

State of Haryana .... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Hitesh Chopra, Advocate
with Mr. Amit Kumar, Advocate
(through video conferencing)
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Ms. Gunjan, Complainant in person.

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GURBIR SINGH, J. :

1. **CRM-31230-2024 :** This is application under Section 482 Cr.P.C. for placing on record documents Annexures P-4 to P-7. For the reasons mentioned in the application, the same is allowed and Annexures P-4 to P-7 are ordered to be taken on record, subject to all just exceptions.

2. **Main Case :** Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.171 dated 27.08.2023, under Sections 120-B, 419, 420, 467, 468, 471 IPC, registered at Police Station New Colony, District Gurugram (Annexure P-1).

3. On the last date of hearing i.e. 08.08.2024, the matter was referred to Mediation and Conciliation Center of this Court as the petitioner was ready to settle the matter with the complainant.

4. The report dated 17.09.2024 from the concerned Mediator has been received, wherein it has been stated that the complainant was present for mediation only on one date i.e. 14.08.2024 but the petitioner was not present. On the next three dates, petitioner was present but the complainant did not turn up. So, mediation between the parties could not take place as both the parties never appeared together before the Mediator and the case remained a 'non-starter'.

5. The FIR in question was registered on the basis of written application submitted by the complainant namely Gunjan, reporting a bank fraud with her. She submitted that she was lodged in jail from 20.06.2021 to 02.02.2023. Despite this, on 07.07.2021, two ATM cards were issued from her bank account and also from the bank account of her husband, who had passed away on 16.06.2021. After her husband's death, all her documents were at her house, keys whereof were with parents of her husband. The fraud involved transactions from both her phones (lying in police custody) and also from the phone of her husband, which was in custody of her father-in-law. Her 'fixed deposit' was also encashed using her netbanking and money was withdrawn from her account, meaning thereby that even the bank officials would have been involved in the fraud and forging of documents. An amount of Rs.2,43,534/- was withdrawn from one account and Rs.12,43,000/- from another apart from taking loan of Rs.1,50,000/- from

Bajaj Finance. On the basis of all these allegations, FIR in question was registered.

6. Learned counsel for the petitioner has argued that the petitioner is not named in the FIR and has been nominated in this case subsequently. As per the bank records, an amount of Rs.2,00,000/- has been transferred from the complainant's account and Rs.2,61,000/- has been transferred from her late husband's account in the account of the petitioner. In fact, the petitioner was only helping a relative of the complainant, who had approached him saying that he required urgent cash for the treatment of complainant's husband as her bank account was not working for technical reason. So, the complainant's relative transferred amounts to the petitioner's account and immediate cash was collected from the petitioner. The bank statement of the petitioner has been annexed with the petition as Annexure P-3. The petitioner is not beneficiary as it was COVID time and the petitioner was only helping those in need and was unaware about the actual situation about the complainant. He never used even a single penny for his own benefit, rather, handed over the entire amount to the complainant's relative.

7. On the other hand, learned State counsel has submitted that the petitioner has been named as a person to whom the amount was paid after transferring the same from the account of the complainant and her late husband. When the petitioner was dealing in money transaction, he was required to check identity proof of the persons involved. The story put forth by the petitioner is an after-thought. So, custodial interrogation of the petitioner is required to ascertain the modus operandi adopted by the petitioner in committing the fraud.

8. I have heard the submissions of learned counsel for the petitioner and learned State counsel and have also gone through the case file.

9. From the documentary evidence, it is established that the transactions had been conducted from the bank account of the complainant when she was in jail and also from the account of her husband, who had already expired and part of the amount was credited in the SBI Account, maintained by the petitioner. So, he seems to be the main beneficiary.

10. The online theft of amounts from accounts of general public is taking place daily. Such like crimes should be thoroughly investigated. It is not a case where concession of anticipatory bail should be granted to the petitioner. In the case of **Pratibha Manchanda and another vs. State of Haryana and another** reported as **2023 (3) RCR (Criminal) 511**, the Hon'ble Supreme Court has observed that while considering the applications for anticipatory bail, the Courts should consider factors such as nature and gravity of offence, role attributed to the petitioner and specific facts of the case. Moreover, when a person is equipped with a favourable order of anticipatory bail, the interrogation becomes a mere ritual.

11. In view of the peculiar circumstances, as noticed in the preceding paragraphs, I do not find any ground to grant concession of anticipatory bail to the petitioner. Therefore, the present petition is hereby dismissed being devoid of any merit.

12. However, nothing observed herein above shall be construed to be an expression of opinion on the merits of the case. The observations recorded above are only for the purpose of deciding the present bail petition.

13. Pending applications, if any, shall stand disposed of along with this judgment.

September 24, 2024 **(GURBIR SINGH)**
monika **JUDGE**

Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*