

CRWP-7533-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-7533-2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Vihaan Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shailendra Jain, Sr. Advocate with
Mr. Pushkar Mehrotra, Advocate
Mr. Chirag Madan, Advocate
Mr. Utsav Saxena, Advocate
Ms. Rachael Tuli, Advocate
Mr. Priyavart Parashar, Advocate
Mr. Divij Dutt, Advocate
Mr. Kaveesh Nair, Advocate
Ms. Vidula Mehrotra, Advocate
Ms. Mahima Mukherjee, Advocate and
Mr. Munish Kumar, Advocate
for the petitioner.

Mr. Ashish Bishnoi, DAG, Haryana.

Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate
Mr. Rahul Sharma, Advocate and
Mr. Shivam Sharma, Advocate
for the complainant.

ANOOP CHITKARA, J.

1. Challenging the illegal arrest dated 10.06.2024, subsequent remand order dated 11.06.2024, petitioner has come up before this Court by filing the present petition under Article 226 of Constitution of India and also seeks direction to produce CCTV footage of the premises as mentioned in the petition.
2. I have heard counsel for the parties and gone through the record and its analysis would lead to the following outcome.
3. The petitioner was allegedly arrested on 10.06.2024 at 10:30AM from his office premises in Gurugram and was allegedly taken to Police Station DLF, Sector 29, Gurugram. The petitioner claims that this fact can be verified from CCTV footage which was not seized by the investigator. The petitioner's grievance is that he was arrested at 10:30 AM on 10.06.2024 and he was produced before the concerned Magistrate on

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11.06.2024 at 3:30 PM i.e. after more than 24 hours from the arrest and in fact custody was 28 hours.

4. Facts of the case are being taken from the para 3 of the reply, which reads as follows:-

“3. That the brief facts of the present case are that on 22.09. 2022, complainant Ramesh Prabhu, CEO, Games Kraft Technologies Pvt. Ltd, submitted a complaint alleging therein that Vihaan Kumar introduced himself to be an investor in September- October, 2020, who works out of multiple entities established at Gurugram and one of the key entity is NSP Innoviontech LLP situated at Circle work, 4th Floor, Huda City Center, Sector 29, Gurugram. Vihaan Kumar continued to lure the promoters on the promise of a large investment by him and instructed a change in the Board composition of the complainant company for operational purposes. Through his false inducement, he nominated his personnel to the Board of Directors of the company and obtained complete control of the Board. However, he kept postponing the actual investment to be made by him on various pretexts and gave repeated false assurance to the promoters. Due to the inducements made by Vihaan Kumar, the founders of Gameskraft permitted him to represent himself as founder/promoter of the company, externally to their parties, as well as internally to Gameskraft employees. Vihaan Kumar continued to represent himself as a founder/investor of Gameskraft and held meetings with various third parties including firms such as Ernst and Young, PWC, Law firms and Government officials etc. towards his expansion plans. He used the personnel of his companies to act as his representative, who carried out his instructions with respect to Gameskraft's business and the details of such persons/entities are M/s Clear Though Advisors (Proprietorship) CLA's GSTIN is registered with the legal name Vihaan Kumar; Sadhan Finserve Private Limited; Vijay Kumar Dhanuka, Sadhan Enterprises (I) Private Limited NSP Innovations LLP, Arthmate Tech P2P Financial Private Limited. Vijay Kumar Dhanuka and Hitesh Bhansali were Vihaan's personnel, who executed directions given by him. Additionally, Gameskraft personnel, including complainant would act on such directions as they were under the impression that he was akin to a promoter/founder. Vihaan Kumar selected Umesh Kumar Ram and Rajesh Kumar Lohia by assuring complainant that they are competent and would provide them the requisite professional expertise relevant to the business, who later on were appointed as Directors of the company on his advice. He refused to permit any one from Gameskraft company to directly interact with newly appointed Directors. It is further stated that after discovering various irregularities at the end of Vihaan Kumar's engagement with the company, they conducted a due diligence and background of the aforesaid Directors and found that signatures of the aforesaid Directors i.e. Umesh Kumar Ram and Rajesh Lohia in the MCA documents and document available with the company did not match, which shows that Vihaan Kumar with malafide intention introduced these two Directors of the company so that he could take control of the company's business. In October-December 2021, when they tried to change the composition of the Company's Board, he could not contact Umesh Kumar and Rajesh Lohia as all the communication used to take

place through Vihaan Kumar. When complainant company requested to co-operate, he did not cooperate and even did not provide the company's documents. To regain control, company had to invoke a special procedure under the Companies Act, 2013, to appoint qualified professional persons as Directors and to remove Umesh Kumar Ram and Rajesh Kumar Lohia from the Board. Vihaan Kumar unilaterally selected and onboarded certain service providers such as Fly Tech Services (Proprietorship) for Software Development and Consultancy services; Ginni Technology (Proprietorship), Skytech Technology (Proprietorship), Synx Technology (Proprietorship) and Key Solutions Technology (Proprietorship) for IT/ITES Services; Flora Engineering (Proprietorship) for General Construction Services and Netaxcess Communications Limited for various services/goods including providing automatic data readers, machines for panalogue and engagement of aforesaid service providers, including scope of work, execution of agreements, check on work progress, confirmation of receipt of services and release of payment were entirely managed by Vihaan Kumar. Vijay Dhanuka and Hitesh Bhansali and finance department of the company was directed by Vihaan Kumar to release the payment to these companies from time to time. It is further stated that company was asked to make certain payment of GST by the officials of GST department, Bengaluru for the invoices raised by the aforesaid companies but their company had already made payment of invoices raised by these companies including the GST but they failed to deposit the GST received by them, which caused huge loss to the tune of Rs. 12,15,00,000/-. They attempted to contact the persons to know the reason as to why the GST dues were not paid, but none of the entities were found at the given address. On enquiry made by the company, it was found that Vihaan Kumar has done similar frauds with some other companies as well. Prayer was made to take legal action. Thereupon, the above mentioned FIR No. 121 dated 25.03.2023 u/s 409, 420, 467, 467, 471, 120-B IPC was registered at P.S. DLF Sector-29, Gurugram.”

5. Counsel for the State submits that petitioner was arrested on 10.06.2024 in the evening of 10.06.2024 and within 24 hours, he was produced before the concerned Magistrate. Counsel for the State further referred to para 11 of the reply, wherein it has been explicitly mentioned that petitioner was arrested on 10.06.2024 at 6 PM. He further argued that prior to that petitioner was inquired into but was not arrested.

6. Counsel for the petitioner submits that CCTV footage would show that he was taken away and as such his arrest is illegal detention beyond 24 hours. Even if this argument is taken up on its face value, since there is a difference between when the petitioner is with the investigator for the purpose of joining interrogation and when he was arrested. It is explicitly mentioned that petitioner was arrested on 10.06.2024 at 6PM and was produced on 11.06.2024 at 3:30 PM. Even the time which is taken for transportation is excluded for the purpose of 24 hours. Thus, by no stretch of imagination, petitioner's arrest can be treated as violative of Article 22(2) of Constitution of India and being illegal. Thus, there is no merit in the said petition.

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7. The other prayers are linked with the first prayer. Petitioner's second prayer is preservation of CCTV footage in the premises of 3rd to 5th floor of Huda City Centre, Gurugram, Haryana. Petitioner's counsel submits that there was no necessity of arrest and the grounds of arrest were not handed over to him in compliance with the ratio of Hon'ble Supreme Court of India in ***Pankaj Bansal v. Union of India* 2023 SCC Online SC1244; Prabir Purkayastha v. State (NCT of Delhi), 2024 SCC Online SC 934; Arvind Kejriwal v. Directorate Enforcement 2024 SCC Online SC 1703; State of Punjab v. Ajaib Singh & Anr. (1952)2 SCC 421**, the judgment passed by the Hon'ble Apex Court in ***V. Senthil Balaji vs. State* (2023 SCC online SC934)** and the judgment of this Court in ***CWP-24787-2023 titled as Pranav Gupta v. Union of India***.

8. It would be appropriate to refer to para 12 of the reply, which reads as follows:-

"12. That on 10.06.2024 at 2:15 PM, the police team along with the petitioner reached the EOW-1, Gurugram. The petitioner told that he has diabetes and he is not feeling comfortable. Upon this, he was provided with some refreshments. At 3:30 PM, the petitioner was enquired about the present case, however, he gave evasive answers to the investigating officers. When he was asked about the bank statements, he asked to show the same. At 4:30 PM, the bank statements were showed to the petitioner. He perused the bank statements till 5:00 PM. In this way, the petitioner tried to avoid the interrogation and the said interrogation went on till 6:00 PM. Thereafter, the petitioner was arrested in the present FIR at 6:00 PM on 10.06.2024 and the arrest memo was prepared in this regard. Ms. Rima Dewan, wife of the petitioner, was informed regarding his arrest. The CCTV footage of the premises of HUDA City Centre, Gurugram is also available in this regard. Some screenshots of CCTV footage are attached herewith as Annexure R-1 (Colly) for kind perusal of this Hon'ble Court."

9. In the above said para, it has been explicitly mentioned that petitioner was informed regarding his arrest and after that he was produced before the Judicial Magistrate, who had given the seven days police custody for conducting investigation. The allegations about non-supply of arrest, is simply bald. The analysis of above, would clearly point out that there is no violation of Article 22(1) of Constitution of India because there is nothing to disbelieve that petitioner was not informed about ground of arrest.

10. Petitioner's next case is regarding preservation of CCTV footage. A perusal of the entire petition of 34 pages, does not refer to any reason that why CCTV footage should be preserved, as such this Court while exercising writs of jurisdiction, deems it appropriate not to pass any order regarding preservation of CCTV footage. However, petitioner shall be at liberty to apply to the concerned Illaqa Magistrate/concerned Court for preservation of the said CCTV footage. In addition to that, the concerned DySP to look into this matter.

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11. Petition is dismissed with the aforesaid observation. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.