2024:PHHC:115719

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-40430-2024 (O&M)
Date of decision: 04.09.2024

Harpreet Singh ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Lokesh Vohra, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Abhishek Sidhwani, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. *(Oral)*

1. Through the instant petition, filed under Section 482 of Bhartiya Nagarik Suraksha Sanhita, 2023 *(for short 'BNSS')*, the petitioner seeks anticipatory bail in case FIR No. 17, dated 10.06.2024, registered under Sections 406, 420 and 120-B of IPC at Police Station Cyber Crime Hansi, District Hisar.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of the statement recorded by respondent No. 2/complainant Sunil Kumar alleging therein that on 22.04.2024, he received some call from cell number 80937-33893 on his mobile phone. The caller asked about his well being and also that the complainant knew the caller or not. The complainant, while considering him to be his acquaintance Lokesh, nodded and then the caller

told him that his cousin was to be operated upon and as he needed money immediately, hence, he had got transferred an amount of Rs. 1 Lakh in his bank account through someone. Some time thereafter, the complainant received an SMS on his phone with regard to credit of aforesaid amount in his bank account. He again received a call from the same caller and on his asking, the complainant transferred an amount of Rs. 18,500/- from Google Pay application linked to the account of his daughter Kashish and also got transferred the amounts of Rs. 36,500/-, Rs. 20,000/- and Rs. 25,000/- respectively from the account of Veerbhan and Dinesh through Google Pay. The complainant alleged that afterwards, he went to the shop of Lokesh only to know that the latter had never called and him asked for any money and only then, he came to know that he was duped of a sum of Rs. 1 Lakh. He prayed for taking legal action against the culprits. After registration of the FIR, investigation proceedings have been initiated.

3. During the course of investigation, co-accused Lakhvinder and Gurmeet were arrested. On interrogation, co-accused Lakhvinder suffered disclosure statement to the effect that the petitioner, who is his cousin, used to open fake bank accounts and in lieu thereof offered money by way of commission. On his asking and out of greed, he had opened a bank account in his name and sold the same to the petitioner for a sum of Rs. 4,000/- and had also handed over the kit containing ATM Card, SIM Card etc. to the petitioner. He also disclosed that the petitioner had registered his own phone number in the above said bank account, so that he himself could operate the same. Co-accused Gurmeet also suffered disclosure statement that co-accused

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Kulwinder, who was involved in the business of online fraud, met them and disclosed that he needed fake bank accounts and offered money in lieu thereof and they by conniving with the petitioner, used to open accounts as per plan of Kulwinder and sell the same to him and got commission. It was also disclosed that the petitioner used to sell accounts of many persons and earned money. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Hisar but the same had been dismissed, vide order dated 30.07.2024. The investigation is underway.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The only role attributed to him is that he had opened a fake bank account on the asking of co-accused Lakhvinder and had sold it further in lieu of some consideration. In fact, he was made a scapegoat by co-accused Lakhvinder, who is his brother. He is neither the beneficiary nor the recipient of any amount. The fraud money has been transferred to the account of co-accused Daljit Kaur, who is yet to be arrested. Co-accused Kulwinder, Gurmeet and Lakhvinder are the main culprits. The petitioner is ready to join the investigation. His custodial interrogation is not required. No purpose would be served by detaining him into custody. Complainant Sunil Kumar has sworn an affidavit in favour of the petitioner on 12.08.2024 affirming the fact that he had received his money back and he has no objection if the FIR against the petitioner is quashed. Therefore, it is urged that the petition deserves to be allowed.

5. Status report has been filed. It is submitted therein and learned State counsel has argued that there are serious allegations against the petitioner as he, being part of a larger conspiracy hatched by him with the co-accused to defraud and deceive innocent public persons by duping them of their money, had got opened bank account from the co-accused and then sold the same by providing details thereof to other accused in the greed of money. The act committed by him of getting fake bank accounts opened has been ultimately leading to causing wrongful loss to several public persons including complainant. It is argued that for conducting thorough investigation in the matter and eliciting the information as to the main precipitator of the subject crime, the custodial interrogation of the petitioner must. It is, thus, urged that the petition is liable to be dismissed.

6. Learned counsel for respondent No.2/complainant has not raised any objection in allowing the present petition.

7. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

8. The petitioner is alleged to have entered into criminal conspiracy with co-accused Lakhvinder and Gurmeet and in pursuance of that conspiracy, he is alleged to have got opened bank accounts in the name of co-accused and by getting his own mobile phone registered in those accounts is further alleged to have sold those accounts to other co-accused in lieu of some money in the form of commission and otherwise. The act done by him has led to commission of much graver offences. To burst the nexus of persons involved in defrauding of public persons, the custodial interrogation of the petitioner is

must. Simply because the complainant has received his money back and has sworn an affidavit in favour of the petitioner, his innocence has not been established and that does not make him entitled to seek benefit of pre-arrest bail as a matter of right. In my considered opinion, custodial interrogation of the petitioner, which is obviously more elicitation oriented than questioning him on his well ensconced with a favourable order under Section 482 of BNSS is must, since useful information can be disinterred from the same and the manner in which conspiracy to commit the subject offences was hatched, can be unearthed. Even otherwise, the case is at nascent stage and the order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. Keeping in view the discussion as made above, I am of the considered opinion that no circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

04.09.2024 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

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