IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105 **CRM-M-40866-2024**
DATE OF DECISION: 23.08.2024

MRIDUL ALIAS MARIDOOL ...PETITIONER

Versus

STATE OF PUNJAB AND ANR. ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D.S. Gandhi, Advocate for the petitioner(s).

Mr. Rajiv Verma, DAG, Punjab.

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SANDEEP MOUDGIL, J (ORAL)

Relief Sought

1. The jurisdiction of this court has been invoked under section 482 B.N.S.S. for the grant of anticipatory bail to the petitioner in FIR No. 95 dated 13.05.2024 under Section 420 of IPC and Under Section 66(c) of I.T. Act, registered at Police Station Islamabad, District Amritsar (Annexure P-1) .

Factual Matrix

2. Contents of the FIR is read as under:-

'Reference Complaint No.236/PC-COP dated 10.08.2023, subject of which is that, statement of Maridool s/o Shri Shivraj Singh Pal, R/o Flat No.005, House No.46-A, Second Cross, Krishna Reddy Layout, Kalyan Nagar, Bangalore-43, permanent address, House No.D-33, Rameshwar Nagar, Basni, Phase-1, Jodhpur, Rajasthan-342005, aged about 26 years, mobile No.75300-00652 through 75682-94221 stated that I am resident of above address and I am working as Mechanical

Engineer at Cadet Defence System, 89/2 Rampura, Bidarhali, Hobli, Bangalore-560049. Today, I have come present in connection with the enquiry of my complaint No.236- P.C./C.O.P dated 10.08.2023 against Maridool Mehra. In this connection, I wish to state that my saving bank account No. 20280005655 with State Bank of India, Branch Jhalamand, Jodhpur and my PAN Card No.is DCKPM0263G. That in March,12 2023, I received a phone call from SBI, Collection that on the purchase of your two credit cards, more than Rs. 1 lac payment is pending which you have not made. That thinking this matter as fraud, I did not bother about this. That in next month of April, I also received similar phone call and also next day, my father also received such phone call and then I saw my credit report and came to know that Maridool Mehra s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar at different times has made Online shopping from my account and till today, such payment has not been made to the bank. That now this amount comes to approx. Rs.17 lacs. That on dated 21.07.2023, through Flip- Cart, I received legal notice for Rs.7065/- from IDFC First Bank's Udit Sharma and Associates Advocates and Legal Consultants Onwards Coworkx UG, E-44/3, Pocket-D, Okhala, Phase-II, Okhla Industrial Area, New Delhi-110020 and then I came to know about this matter and I called Maridool Mehra on his phone No.80547-74743 dated 26.07.2023, then Mridool Mehra admitted about all the Online Shopping and said that tomorrow my Advocate will talk to you regarding settlement. That now on dated 23.08.2023, I received a phone call from Sumit, Advocate of Maridool Mehra from his phone No.96462-23355 and talked to see me that after meeting we can make settlement. On this, I said that I do not want any compensation and you may go to your bank, admit your mistake and then go to the police but after that I did not discuss anything with them. I have submitted written complaints to SBI Credit Card Manager, Branch Embassy Heights, Bangalore on 25.04.2023 and HDFC

Bank, Branch Ranjit Avenue, Amritsar on dated 09.08.2023. That after checking on my PAN Card, HDFC Bank told that with my account, credit cards No. 0004346770013293553 and 0004341- 5501002284498 are attached. Here, I also wish to inform that Maridool Mehra on my e-filing portal on dated 10.01.2021 in the year 2020-21 filed return on my PAN card in which his address of House No.94, Kishan Kot, Islamabad, Amritsar is appearing. Photo copy of which is being submitted to you and Maridool Mehra had opened Zerodha Demat Account in my name in which stock trading can be done. Maridool Mehra through my account has got issued two credit cards from HDFC Bank, 2 credit cards from ICICI Bank, 4 credit cards from SBI Bank, out of which two credit cards have been got closed. Three personal loans have been taken from IDFC First Bank, one credit card from RBL Bank and Consumer loan has been taken from HKarur Vsyasa Bank, housing loan has been taken from Punjab National Bank, Ghee Mandi, Amritsar. Maridool Mehra namely person has done online shopping vide credit cards from my account on different times and taking housing loan has committed fraud with me. While taking legal action against him, justice be delivered to me. Statement has been heard and found correct. Sd/- Maridool above, 04.03.2023. I have recorded this statement in the presence of my father Shiv Raj Singh Pal. Sd/ Maridool, 04.03.2023. Report with reference to complaint No.236/PC-COP dated 10.08.2023. Complaint from Maridool s/o Shri Shivraj Singh Pal, R/o Flat No.005, House No.46-A, Second Cross, Krishna Reddy Layout, Kalyan Nagar, Bangalore-43, permanent address, House No.D-33, Rameshwar Nagar, Bashi, Phase-1, Jodhpur, Rajasthan-342005 against Maridool Mehra s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar. Subject: Regarding using of PAN Card of the complainant. Sir, the above complaint from Maridool s/o Shri Shivraj Singh Pal, R/o Flat No.005, House No.46-A, Second

Cross, Krishna Reddy Layout, Kalyan Nagar, Bangalore-43, permanent address, House No.D-33, Rameshwar Nagar, Basni, Phase-1, Jodhpur, Rajasthan-342005 submitted against Maridool Mehra s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar for conducting enquiry regarding use of PAN card of the complainant and got issued many credit cards from the banks and doing online shopping at different times regarding which the complainant is receiving legal notices from the different banks in which HDFC Branch Kabir Park's account No.501001145583632 has been mentioned, enquiry of which got conducted by Inspector Mohit Kumar and by summoning the complainant, his statement got recorded and obtained record relating to the complaint which is enclosed and after that enquiry regarding the above complaint was marked to Cyber Crime which the secret and open enquiry and enclosed record which Inspector Mohit Kumar obtained regarding HDFC Bank Account No. 501001145583632 and found that this account is registered in the name of Maridool s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar. That the person namely Maridool s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar by using PAN Card of the complainant Maridool s/o Shri Shivraj Singh Pal, R/o Flat No.005, House No.46-A, Second Cross, Krishna Redd Layout, Kalyan Nagar, Bangalore-43, permanent address, House No.D-33, Rameshwar Nagar, Basni, Phase-1, Jodhpur. Rajasthan-342005 and getting credit card and withdrawing money and not returning the money to the bank has committed fraud with the banks and the complainant. Therefore, after registering case against Maridool s/o Satbinder Singh, R/o 94, Ward No.56, Kishan Kot, Islamabad, Amritsar u/s 420 IPC and 66-C IT Act, conducting deep investigation is made out. That the incident being under the area of Police Station Islamabad, Amritsar City, the SHO, P.S. Islamabad, Amritsar may be ordered to register case and conduct enquiry. Sd/- Additional

Deputy Commissioner of Police, Local/Cyber Crime, Amritsar City. For legal opinion of Deputy D.A. (L), the Commissioner of Police City. Sir, I Additional Deputy Commissioner of Police, Local/Cyber Crime, Amritsar City's enquiry report and enclosed documents have been considered thoroughly. As per my legal opinion, on the basis of enquiry report, at this stage offence u/s 420 IPC and section 66-C The Information Technology Act, 2000 is made out. If approved. Sd/ Deputy District Attorney (Legal), Amritsar dated 03.05.2024. The SHO P.S. Islamabad after registration of case, enquiry may be conducted. Sd/- Commissioner of Police, Amritsar City.'

Contentions on behalf of the petitioner

3. It is contended by the learned counsel for the petitioner that the allegations in the FIR are false since the petitioner had applied for PAN card through an agent in the year 2016 and his application remained pending for about three months and when the petitioner agitated before the said agent and demanded refund of his money, then the PAN card, in question, was received by the petitioner and there has been no default by the petitioner in making payments from the year 2016 to 2023, which shows that the petitioner is not at fault. He further contends that when the petitioner was asked by the Police to join enquiry it is only then he came to know that the entire controversy has arisen due to similar names and date of birth of the complainant and that of the petitioner. Otherwise also, the petitioner is not at fault because he had not applied for PAN card of his own but applied through an agent as such the petitioner is innocent and as such may be granted anticipatory bail in this case.

Notice of motion.

Submissions on behalf of State.

4. On the asking of the Court, Mr. Rajiv Verma, Deputy Advocate General, Punjab accepts notice. It is contended by the learned State counsel that the allegations in the FIR against petitioner are serious in nature keeping in view the total number of credit cards possessed and filing of ITR by the petitioner by misusing the PAN card of the complainant, therefore, the petitioner does not deserve any leniency and further, the custodial interrogation of the petitioner would be required to find out the involvement of other persons also in the present case.

Analysis

5. Heard learned counsel for the respective parties at length.

6. A perusal of the case file would reveal that the complainant Maridool s/o Shivraj Singh Pal, of Kalyan Nagar, Bangalore, aged 26 years, made a written complaint dated 10.08.2023 against Maridool Mehra (the present petitioner), and during the course of enquiry of his complaint, he appeared and made statement to the effect that he is maintaining his savings bank account with the State Bank of India, Jhalamand Branch, Jodhpur and his PAN Card Number is DCKPM0263G and in the month of March, he received a phone call from SBI, Collection that an amount of Rs.1.00 lacs is pending against his two credit cards but he did not bother assuming the same to be a fraudulent call but in the month of April again a similar call was received by him and thereafter, the next day his father also received the similar call whereupon he checked his accounts and noticed that Maridool Mehra s/o Satbinder Singh, R/O 94, Ward No.56, Kishan

Kot, Islamabad, Amritsar, had made online shopping on different times from his account and payments had not been made to the Bank and till that day of his making statement, the outstanding amount had reached to Rs.17.00 lacs approximately.

7. It is further averred by the complainant that on 21.07.2023, he received one legal notice, through Flipkart, for Rs.7,065/- from IDFC First Bank's Udit Sharma and Associates Advocates and Legal Consultants, Pocket-D, Okhla, Phase-II, Okhla Industrial Area, New Delhi and that is when he came to know about the matter in hand wherein the petitioner telephonically admitted about all the online shoppings done by him and also told that his Advocate will talk to the complainant tomorrow in this regard and also for settlement. However on 23.08.2023, one Advocate made a phone call to the complainant on behalf of the petitioner and talked about making settlement with the petitioner but the complainant refused. The complainant thereafter made complaints to SBI Credit Card Manager and HDFC Bank whereupon complainant was informed by HDFC Bank that two credit cards are attached with the account of the complainant. Apart this, it is also alleged by the complainant that Maridool Mehra (the petitioner) on e-filing portal of the complainant had filed ITR for the financial year 2020-21 on 10.01.2021 by mentioning the PAN card of the complainant and giving the address of Islamabad, Amritsar. It is further alleged that the petitioner had got issued two credit cards from HDFC Bank, two credit cards from ICICI Bank, four credit cards from SBI Bank. Besides this, three personal loans have been taken from IDFC First Bank, one credit card from RBL Bank and Consume loan

has been taken from HKarur Vsyasa Bank and housing loan has been taken from Punjab National Bank, Ghee Mandi, Amritsar. Not only this, petitioner withdrew cash amount also from the Bank using credit card(s).

8. Taking note of the facts stated herein above, this court finds apposite to refer the observation of the Apex Court In "***Anil Kumar Yadav vs State (NCT Of Delhi), (2018) 12 SCC 129***", wherein it is observed and held that while granting bail, the relevant considerations are:

> *(i) nature of seriousness of the offence;*
>
> *(ii) character of the evidence and circumstances which are peculiar to the accused; and*
>
> *(iii) likelihood of the accused fleeing from justice;*
>
> *(iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and*
>
> *(v) likelihood of his tampering.*

9. In State of ***Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589,*** Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in ***Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598***, it has been observed as under:

> *"3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained.*

> *Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter."*

Decision.

10. In view of the above circumstances and also the gravity of allegations coupled with the law enunciated by the Apex court in above mention cases, this Court is of the considered view at this stage that the petitioner has prima facie committed the offence of cheating and fraud by misusing the PAN card and other details of the complainant, therefore, does not deserve any discretionary relief of the nature, as prayed for, in the present case and custodial interrogation of the petitioner would be necessary to find out his involvement in detail and also of any other person(s), if any, involved in this case. Consequently, the prayer for grant of anticipatory bail at this stage is hereby rejected.

11. Dismissed.

(SANDEEP MOUDGIL)
JUDGE

23.08.2024
anuradha

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