



CRM-M-41555 of 2024 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-41555 of 2024
Date of Decision: 31.08.2024

Shamshad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Manisha Batra, J.(Oral)

1. Prayer in the instant petition has been made by the petitioner for grant of anticipatory bail in case FIR No.402 dated 12.12.2021 under Sections 379, 420 and 120-B of IPC, registered at Police Station Sector 9-A, District Gurugram.

2. The allegations levelled in the FIR are that on 07.12.2021, he had gone to the ATM booth of ICICI Bank located at Sector 9-A, Gurugram where one unknown youth on the pretext of helping him, asked the PIN number of his ATM card and while operating the ATM card, changed the same. On receiving an SMS on his mobile phone subsequently, he came to know that an amount of Rs.47,000/- was withdrawn by using his ATM card and only then he came to know that the ATM card which was with him, was not belonging to him. He came to know that it was issued in the name of



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registered. The investigation proceedings have been initiated. During the course of investigation, the co-accused Abid Khan was arrested. On interrogation, he suffered a disclosure statement admitting his involvement in the act of getting the ATM card of the complainant changed and also took the name of the present petitioner and co-accused Irfat who had actually changed the ATM card of the complainant with his (Abid Khan's) card and had withdrawn a sum of Rs.47,000/-. He also disclosed that he had received a sum of Rs.17,000/- in his share, out of which, an amount of Rs.2200/- was lying with him. He also identified the petitioner and co-accused Irfat from the footage of CCTV camera which was installed in the vicinity wherein the ATM booth was situated. On the basis of his statement, the petitioner has been nominated as an accused and offence under Section 120-B of IPC was added. The investigation is still underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Gurugram which has been dismissed, vide order dated 24.04.2024.

3. It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case and he is ready to join the investigation. There is delay of 5 days in lodging of the FIR. He was not named in the FIR. No recovery is to be effected from him and his custodial interrogation is not required. He did not have any concern with the subject offences. He has a permanent abode. There are no chances of his absconding or tampering with the prosecution witness. No purpose would be served by detaining him in custody and therefore, it is urged that the petition deserves to be allowed.



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4. Per contra, learned State counsel has resisted the prayer made by the petitioner in terms of the status report filed today in Court. It is argued that after registration of the FIR, CCTV footage of the camera installed in the vicinity wherein the ATM booth of ICICI Bank was existing, had been checked and the said footage had been shown to the complainant. The complainant had identified the present petitioner as one of the persons who had exchanged his ATM card at the time of withdrawal of his money. Even co-accused Abid Khan had also identified the petitioner. It is further argued by learned State counsel that there are specific and serious allegations against the petitioner. His custodial interrogation is required for conducting thorough investigation in the matter by the police as well as for effecting recovery of the money withdrawn from the bank account of the complainant by using ATM card. With these broad submissions, it is urged that the petitioner does not deserve to be extended the benefit of anticipatory bail.

5. I have heard learned counsel for the parties at length and perused the material placed on record.

6. The petitioner is alleged to have hatched a conspiracy with co-accused and in pursuance of the same, the ATM card of the co-accused Abid Khan was got blocked on the pretext that the same had been lost and thereafter, by using the same ATM card, the petitioner and the co-accused Irfat took the ATM card of the complainant while he was using the same at the ATM booth on 07.12.2021 and thereafter, they used the same for withdrawing an amount of Rs.47,000/-. The petitioner and co-accused are alleged to have induced the complainant to disclose his PIN card on the

on pretext of helping him in operating his ATM card. There are serious



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allegations against the petitioner. Such like incidents are increasing day by day. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extraordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

31.08.2024
D.Bansal

(MANISHA BATRA)
JUDGE

Whether speaking/ reasoned :	Yes/ No
Whether Reportable :	Yes/ No