HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
****
CRM-M-46414-2024 (O&M)
Date of Decision: 18.09.2024
****

Ravinder Singh ... Petitioner

VS.

State of Haryana ... Respondent
****

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL
****

Present: Mr. PKS Phoolka, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana
****

<u>Sandeep Moudgil, J.</u>

<u>Relief</u>

(1). This petition under Sections 438 CrPC has been filed by the petitioner seeking anticipatory bail in case FIR No.051 dated 22.02.2024 under Sections 420/120-B IPC, registered at Police Station Cyber Crime East Gurugram, District Gurugram.

<u>Facts</u>

(2). As per the allegations in the FIR, on 05.02.2024, the complainant Sheetal Mehta came to the Police Station and stated that she was contacted on WhatsApp via mobile phone No.9205819738 wherein Akshya Khanna disclosed himself as mentor for training and assured her 500% returns by trading in stock market by joining his App KKRPRO. He told her to make institutional account on his APP KKRPRO and by sending money into the account details send by him. In return the money was to be invested in IPOs, Block Trading and stocks. She registered and shared her account details. She got message regarding registration and approval. Then they invited the account opening specialist to WhatsApp group and taught her, how to open the account on KKRPRO App. She transferred consecutively Rs.10 Lacs on 18.01.2024 in the account given to her followed by Rs.5 Lacs on 18.01.2024, Rs.5 Lacs on 25.01.2024, Rs.2 Lacs on 02.02.2024, Rs.5 Lacs on 20.01.2024 and Rs.7 Lacs on 23.01.2024 and like this, a total sum of Rs.34 Lacs was transferred to the account by her. Later on, when she demanded the money back when she was in need, they refused to release her fund. On her complaint, the present FIR was registered.

Submission by the petitioner

(3). Learned counsel for the petitioner submits that he was not involved in the offence as alleged inasmuch as neither the complainant party nor the other accused persons are personally known to him who are associated with the alleged crime and since then he is facing several difficulties as his Bank Account was freezed by the police on 13.02.2024. He submits that the petitioner himself if a victim of Online fraud and the police are investigating the matter in a biased and prejudiced manner as he has no direct link with the complainant or any other person who allegedly cheated him.

State's contention

(4). Learned State counsel contends that the petitioner does not deserve any concession by this Court for the reason that there are monetary transaction of transfer of Rs.5 lakhs in the bank account of the petitioner by the complainant and since the matter is related to online fraud which is on the peak in this digital era, the petitioner has been prima facie found involved and to be part of such cyber crime for which the petitioner needs to be interrogated.

Analysis

(5). It is trite that the court while considering an application seeking bail, is not required to weigh the evidence collected by the investigating agency meticulously, nonetheless, the court should keep in mind the nature of accusation, the nature of evidence collected in support thereof, the severity of the punishment prescribed for the alleged offences, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witness being tampered with, the larger interests of the public/State etc.

(6). Financial statement fraud, having occurred in the present case, is a white-collar crime usually perpetrated by management insiders to represent a company in a more favorable fiscal light. Fraudsters are motivated by personal gain, such as performance-based compensation; to enhance the company's reputation by misleading potential investors; or to simply buy time until financial mistakes and losses can be properly corrected.

(7). In the present case, the accused persons sold money into the institutional account made through Whatsapp group KKRPRO and thereafter the details were shared by the petitioner with the accused persons on Whatsapp and in return, the petitioner was lured to subscribe into various IPOs, Block Trading and stock with assurance to get handsome return to the extent of 250%. The petitioner in conspiracy with his co-accused got the money sent by the complainant and transferred the same to various accounts to the extent that a sum of Rs.5 Lacs was transferred to the Bank Account of the petitioner.

(8). True it is that the investigation in such like cyber fraud involves web intricacies involved and as such there are rarely any direct evidence. It is not in dispute that the petitioner received a sum of Rs.5 Lacs in his Account, the recovery of which is yet to be effected. In cases involving cyber/financial fraud, the Court needs to assess the severity of the alleged cybercrime, its impact on victims, financial implications, and elements like cyber terrorism or extensive fraud. Also, in such scenario, what gains importance is of digital footprints and electronic evidence and the availability and reliability of such digital evidences.

Decision

(9). Considering the fact that the petitioner, *prima facie*, has been found involved for execution of the cyber fraud by luring the complainant to transfer lakhs of rupees into their accounts and also considering the possible risk and potential for the cyber fraudsters for tampering with digital data or even fleeing the jurisdiction or evading law enforcement, this Court does not deem it fit to grant the concession of anticipatory bail to the petitioner.

(10). Dismissed.

18.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

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