

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-54506-2023 (O&M)
Date of Decision:-7.5.2024

Mukesh Gupta... Petitioner

Versus

State of Haryana... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kapil Gupta, Advocate for the petitioner.
Mr. Munish Sharma, DAG, Haryana.
Mr. Amit Parashar, Advocate for the complainant.

FIR No.	Date	Police Station	Under Section/s
292	25.9.2023	Sector 17, HUDA, Jagadhari, District Yamuna Nagar	408 and 420 of Indian Penal Code

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in respect of the aforementioned FIR.
2. The FIR was lodged at the instance of Bharat Bhushan Singh, wherein it is alleged that he (complainant) is partner in a pharmaceutical company by the name and style of ‘M/s Optica Pharmaceuticals’ and that Mukesh Gupta

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(petitioner) was working as a Computer Operator/Manager since the last 12 years. It is alleged that Mukesh Gupta, in the capacity of computer operator, used to make payments to suppliers of the pharmaceutical company. The complainant stated therein that his wife had been diagnosed with Cancer since the last 9 months and, as such, he was busy looking after his wife, while his partner Ravinder Jeet Singh was suffering from depression since the COVID period and the 3rd partner Smt. Rajinder Kaur was a sleeping partner and that taking benefit of the said situation, Mukesh Gupta transferred an amount of Rs.28 lakhs in various bank accounts during the period 1.2.2023 to 14.9.2023.

3. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in the present case and that whichever payments were made, the same were made with the consent of the complainant inasmuch as the payments by online modes/RTGS could only be made with the help of “One Time Password” (OTP), which is received by the account holder i.e. by the complainant on his registered mobile phone and that since the mobile phone in question is always in possession of the complainant, therefore, it cannot be said that any such payment had been made without the consent of complainant.
4. Opposing the petition, learned State counsel assisted by learned counsel for the complainant submitted that the petitioner being an old employee of complainant’s company had taken undue advantage of the trust reposed in him by the complainant particularly when the complainant and his partners were busy elsewhere. It has been submitted that it was on account of the faith

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(3)

the complainant had in the accused that the OTPs received by the complainant used to be shared with the accused for the purpose of releasing the payments as had been done previously, but the accused on account of greed had shattered the said trust. It has been pointed out by learned State counsel that during the course of investigation, bank accounts statements of the accused and of several other persons have been collected, which clearly indicates that the petitioner had misappropriated huge amounts of complainant's company.

5. This Court has considered rival submissions addressed before this Court.
6. It is not in dispute that the accused was an employee of complainant's company and had been handling accounts through computer and that payments used to be made through him. During the course of investigation, the bank accounts statements of various bank accounts of the petitioner as well as of suppliers of the company and other persons were scrutinized and it transpired that although several payments from the company's accounts, which were due to be paid by complainant's company to its vendors, had been released, but the same were actually credited in the bank accounts of some other persons. During the course of investigation, the police recorded statements of Chetan Narang, Ashish Gupta, Mohit Singla, Chander Parkash and from which it transpired that the petitioner had also been running his own parallel business being a distributor of 'Reliance Company' and had made payments in respect of his own business transactions with 'Reliance Company' from the account of complainant's company. Upon scrutinization of various bank accounts, it had surfaced that while in the record payments



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are reflected to have been made in favour of creditors of the complainant’s company, but as a matter of fact the said creditors had not received any such payment. The aforesaid evidence collected during the course of investigation in the shape of bank accounts statements, clearly point towards the complicity of the petitioner. Still further, conduct of the petitioner also needs to be mentioned inasmuch during the course of pendency of this petition, the petitioner had represented that he would return the amount and would amicably resolve the issues, but he has been dilly-dallying the matter thereafter although he had been granted interim releif vide order dated 30.11.2023 pursuant to an offer made by the petitioner to return some amount to the complainant.

7. In view of the aforesaid discussion, this Court does not find any special case for grant of anticipatory bail to the petitioner. The petition is sans merit and is hereby dismissed.

7.5.2024
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(Gurvinder Singh Gill)
Judge

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