101 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64953-2024

Date of Decision: 23.12.2024

Ravikant Kumar @ Ravi Kant @ Folten ..... Petitioner

Versus

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Shahid Anwer, Advocate, for the petitioner (through VC).

Rajesh Bhardwaj, J.

1. The petitioner has approached this Court praying for granting him anticipatory bail in a case FIR No.32, dated 30.07.2022, registered under Sections 419, 420 IPC (Sections 467, 468, 471, 120-B IPC & Sections 66-C, 66-D of the IT Act added lateron), at Police Station Cyber Crime Rohtak, District Rohtak.

2. Succinctly, the facts of the case are that FIR in the present case was lodged on the statement of the complainant, namely, Neeru Sharma, wherein, it was alleged that she got issued a debit card from HDFC Bank to be sent through Blue Dart Courier. On 25.07.2022, she searched the customer care number on the Blue Dart site and made a call. However, thereafter she received a phone call from mobile No.82404-68183 on her mobile number and the person calling, told his name as Rahul, who said that he is employee of Blue Dart Courier. She asked him about the delay in delivering the debit card, then the person asked her to make an online complaint in that regard and to pay Rs.5/- for online complaint. On his instructions, she opened the file sent by him and filled the Bank account details and Paytm UPI password, as was told by him. However, on checking she found that Rs.4,999/- and Rs.95,000/- were withdrawn from her SBI account No.10222157081. It was alleged that some unknown person had

committed fraud with her by withdrawing Rs.99,999/-. Request was made to take legal action against the culprit. On the registration of the FIR, the investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Rohtak praying for grant of anticipatory bail. However, after hearing both the sides, finding no merit in the same, learned Court declined the same vide its order dated 25.10.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that neither the petitioner has been named in the FIR nor he has committed any offence as alleged. He, thus, submits that the petitioner has been arrayed as an accused on the basis of the disclosure statement made by co-accused Nitish, who was tried by the trial Court, however, on benefit of doubt, he was acquitted by the trial Court vide order dated 25.09.2024. He has submitted that the Investigating Agency has alleged that the mobile number of the petitioner was used in the offence, however, the mobile number and Bank account used in commission of offence, are not registered in the name of the petitioner. He submits that the petitioner is not the beneficiary of the alleged amount. He submits that in the facts and circumstances of the present case, there being no *prima facie* case having been made out against the petitioner, he deserves to be granted anticipatory bail.

4. Notice of motion.

5. Mr. Tanuj Sharma, AAG, Haryana, accepts notice of behalf of the State. He has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner has played a key role in the

commission of offence. He submits that during the investigation, it has been found that the Bank accounts used in the offence were linked with the mobile number of the petitioner and the amount was transferred to the same account. He submits that the petitioner is at large since the date of registration of the FIR and thus, there being no merit in the present petition, the same deserves to be dismissed.

6. After hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR was registered by the complainant, wherein, she alleged that by way of Cyber offence, she was duped of an amount of Rs.99,999/-. It has been found by the Investigating Agency that from the account of the complainant in the HDFC Bank, money was transferred in the name of one Sunita in Canera Bank and one Deepak having bank account in IDBI Bank. Both these accounts were found to have been opened on the fake and forged documents. These bank accounts were found to have been linked with the mobile number of the petitioner. Thus, *prima facie* complicity of the petitioner has been established during the investigation. The petitioner is at large since the date of registration of the FIR. Co-accused, who was acquitted, was arrested and had faced the trial. It is only on the appreciation of the evidence, the co-accused has been acquitted by the trial Court. The petitioner cannot taken the benefit of the same, as he is not at par with the co-accused.

7. For the consideration of anticipatory bail, the statutory parameters are given under Section 482 (1) & (2) of BNSS which reads as under:-

"**Direction for grant of bail to person apprehending arrest:**

1. When any person has reason to believe that he may be arrested on *an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.*

2. When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section."

8. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma,** (1997) 7 SCC 187 has held as under:-

"6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced,

> for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders."

9. Hon'ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

10. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been *prima facie* established. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

11. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

12. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

23.12.2024
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/Nos