2025:PHHC:020495

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-8328-2025 (O&M)
Date of decision: 13.02.2025

Farzand Ali

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Jasdeep Singh, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

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HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') for grant of anticipatory bail in FIR No.123 dated 03.09.2024 under Sections 318(4) & 61(2) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter 'BNS'), registered at Police Station Cyber Crime, District Central Faridabad.

2. The FIR (*supra*) reads as follows:

"The Cyber Crime Police Station, 831, Sector 17, Faridabad

121002, Dear Sir, This refers to our (my wife and myself) visit yesterday to your office regarding cyber crimes against me. My 2 Bank Accounts in ICICI Bank have been scammed of Rs 42,83,000/- and Rs. 4,52,000/- on 09/07/2024, A/C no.s, respectively are 000701012935 and 008301017249.

1. Between 8 am to 11am, I got a call from a male, supposedly in Mumbai, name given "Ajay Goel" Employee of "FEDEX Branch Mumbai, Andheri East." He gave his Employee Code as FD200643. He told me MY on 26.06.24. The name phone no. and Name and asked me if I had been to "Iran". I emphatically told him "I have never been to Iran". He responded by saying that in my name a parcel containing banned narcotics had been sent there" of the contents was given as "450 gms. of MDMA", a banned drug. He said the Police have to check my bona fides only they can help me otherwise I will be held as a culprit and nobody will be able to save me. He then volunteered to transfer the call to the Police, so that I can clarify my position. They will extensively check the details and only then can I get some relief. “Otherwise, once caught in the racket, nobody, not even the Courts will be able to give me any relief.” The phone was then instantly transferred to the "ACP". I was a bit surprised as to how could a Courier company transfer the call directly, but then ignored it.

2. The "ACP" turned out to be a lady, on the other end. She claimed to be from the Crime Branch. Name: Amneet Kondal. (Obviously, not her real name). She told me we know the real gangster behind all this is a chap called Mohammed Arman Ali. "Nobody has been able to arrest him till date he is so influential." So, we have to build up a case against him Then showed me a *picture of a chap with handcuff on one hand and surrounded by Policemen. They were all in a van. When I saw the picture, I mentioned to her that I had seen a similar photo in the TOI and this guy, in my opinion, was one of the Maharashtra Ministers, but he was released later by the Court and he is probably, still a Minister. But she insisted it was the gangster "Arman Ali". I have that photo.*

3. She continued to impress me with the gravity of the situation and why I must convince her and her DCP Mr. "Milind Bhambe" about my innocence. The Fl no. given was NCB/MUM/14705 Our conversation was captured on video on the site "NCB 2112MUMBAI DEPT MH. I can share this with you. It is one hour long video. On the same site, she has posted her (?) ID card in police Uniform.

4. She gave me details of the packet which was being sent to Iran under my name and phone no. They gave the Tracking ID, contents of the Parcel, ICICI Debit Card etc, FIR the no. which was "NCB/MUM/14705".

5. Next she asked for my 3 years' ICICI Bank statements. To check if I had illegally transferred any money. Since I was taking time. she insisted I open the 2 Accounts (ending with 7249 and 2935) and show them the entire statement on Skype. All this wd take 2 hours. Later they extended it by a further 1 hour.

6. At some point, I became suspicious had some arguments, but they insisted the money will be returned back after "Verification". The amount transferred was Rs.42,83,000/-from a/c ….2935. It included a Linked FD of Rs.40L (plus interest thereon) which was my son's (who works in UK). From. 7249, they transferred

Rs.4,52,000/-. Total Rs. 47,35,000/-. I immediately informed the National Cyber Crime.

7. The first lot (Rs.42.83L) seems to have been transferred around 11.29 am. The second lot (Rs.4.52L) at 3.58 p.m. The UTR details obtained from ICICI Bank are 000701012935. Amt. as follows: 1) A/C No. Rs.42,83,000/-UTR no. ICICR12024070902890599. Dt. 09.07.24 11) A/C No. 008301017249. Amt. Rs.4.52,000/-, UTR NO. ICICR 12024070902894771. Dt.09.07.24.

8. Enclosures: 1. Bank for A/C from 05.07.2024 Statement to 10.07.24. 2. Bank Statement for A/C from 05.07.24 to 10.07.24. 3. Screen shots of Calls received between 8.20 am to 3.59 pm. (2 pages) We hope the above meets your requirements for efforts to bring back our hard earned money. I must also point out my disappointment with ICICI Bank for having allowed such a high amount without referring to me. In the first instance, I could not pick up the catas I was online with the Fraudsters. But 2nd time, for transfer when they phone to press 1 to approve and 2 to deny the transaction. This time, I quickly picked up the phone and pressed "2". Still they allowed the transactions to continue.".

3. Learned counsel for the petitioner, *inter alia,* contends that the petitioner is neither named in FIR (*supra*) nor is he connected with the alleged offence in any manner. The petitioner has been nominated as accused in FIR (*supra*) merely on the basis of disclosure statement made by his co-accused while he was in police custody. Such a statement has no evidentiary value in the eyes of law and as such, it is hit by Section 25 of Indian Evidence Act, 1872 (*now Section 23(1)(2) of Bharatiya Sakshya Adhiniyam, 2023*). Lastly,

the petitioner has clean antecedents and is not involved in any other case.

4. *Per contra,* learned State counsel opposes the prayer for grant of anticipatory bail to the petitioner on the ground that there exists a Whatsapp chat, which connects the petitioner and co-accused and also, *prima facie,* proves his complicity in the alleged incident. Respondent No.2 was put in cyber arrest and defrauded of Rs.47.35 lakhs of his hard-earned money by manipulating him on the pretext that a package containing 450g of MDMA was sent in his name through the company-FedEx. Thereafter, his call was transferred to an unknown caller, posing as an ACP, the complainant being a member of a criminal gang. She asked him to show her, the bank statements for the last three years in order to check whether any money has been illegally transferred by him. The complainant was pressurized to transfer money for the alleged purpose of verification that caused him a loss of Rs.47.35 lakhs. Further, the petitioner is the mastermind behind this cyber fraud and to uncover his *modus operendi,* the investigating agency ought to be given full opportunity to conduct a proper investigation.

5. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

6. With the advent of technology, the modern society is facing a unique challenge of unethical use of artificial intelligence, which require special attention of the justice administration mechanism. Cyber arrest poses

one such menace, which is being increasingly used to manipulate people into parting with huge amounts of money. Under the fictional threat of impending danger of criminal prosecution, such miscreants target people, who are unfamiliar with technology, especially online banking. The progress made in the field of artificial intelligence enables them to present fake circumstances and assume identities with concerning level of credibility, making it an easy trap to defraud common man, who is mostly a stranger to the procedure of law. Moreover, this technology can also be used to identify targets, that are most likely to yield to their advances. The rampant misuse of such technology is rendering many a people financially distressed, especially the elderly people, who are targeted most frequently. Losing one's retirement fund or contingency fund takes a huge toll on the emotional well being of the victim as well, with an added burden to engage in, often protracted, criminal prosecution.

7. In that context, this Court is of the considered opinion that this fire must be put out before it claims the lifetime savings of more innocent citizens. As such, the Director Generals of Police for the States of Punjab and Haryana as well as the Union Territory, Chandigarh are directed to formulate a policy in association with the banks so as to safeguard interest of the vulnerable population. It may be beneficial for the banks to introduce a standard operating procedure, where suspicious long distance transactions or any unusual activities, especially involving huge amounts, are put on hold till a bank officer

such as the Relationship Manager confirms the same with the account holder, personally. The concerned officials shall submit the compliance report before the Registry of this Court within three months of receiving a certified copy of this order.

8. Adverting to the matter at hand, owing to the seriousness of the allegations and the larger societal impact of this menace of cyber fraud, this Court does not find any ground to grant the concession of anticipatory bail to the petitioner, as his custodial interrogation is imperative for the jurisdictional police authorities to conduct a proper investigation.

9. In view of the discussion above, present petition is dismissed.

10. However, nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall decide the case on its own merits without being prejudiced by the observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

13.02.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No