335

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-62283-2024
DECIDED ON: 05.02.2025**

MUBARIK

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D,S. Matya, Advocate
for the petitioner.

Mr. Ankita Ahuja, AAG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.194, dated 17.07.2024, under Sections 61, 308(2), 351(2) of BNS, 2023, registered at Police Station Nagina, District Nuh.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

> *"To Sir Superintendent of Police, District Nuh. Subject-Application for taking legal action by registering a case against 1. Afsana wife of Nasrudin alias Nassar 2. Narsrudin alias Nassar son of Mahmuda resident of village Maroda Poothli, Tehsil Nagina District Nuh 3. Hanif son of unknown 4. Mubarik son of Hanif 5. Haider son of Hanif resident of village Rawli, Tehsil Firozpur Jhirka District Nuh. Sir, the applicant makes the following request- 1. That the applicant Irfan Khan son of Issac Khan resident of village Maroda Poothli, Police Station Nagina District Nuh is a permanent resident and is the owner of Calcutta-Haryana Transport Company. 2. That the accused Afsana, after leaving her first husband is living as the wife of accused Nasrudin alias Nassar resident of village Maroda Poothli and the above accused Afsana, Nasrudin alias Nassar residents of village Maroda Poothli and Afsana's father Hanif and brother Mubarik residents of village*

Rawli have formed a gang to defraud people by trapping them, talking obscenely with them and blackmailing them by recording it and then defrauding them. 3. That about 3 years ago accused Afsana started calling my phone numbers- 9818884904, 9804000000 and 7044096956 from her phone number-6367177842 and gradually started talking obscenely to me. After that, accused Afsana started blackmailing me and said that the recording of the obscene things I had done with you is in my phone and my husband Nasrudin alias Nassar, father Hanif and brother Mubarik have come to know about it and if you do not want this recording to go viral, then you will have to give us money as per our instructions. If you refuse to give money, we will make this recording viral. 4. That accused Afsana and her alleged accused husband Nasrudin alias Nassar, accused Hanif and accused Mubarik together trapped me in their net and have been blackmailing me since the year 2021 and defrauding me of money in their bank accounts and cash. Due to the threat of the above accused, I had to deposit Rs 36,93500/- from 29.06.2021 to 28.10.2022 from the bank account no. 113905501340 of my firm Calcutta-Haryana Transport in the bank account no. 921010020247037 of Axis Bank of accused Afsana from ICICI Bank on different dates. Thereafter, due to the pressure of the above accused, from 24.07.2023 to 10.05.2024, I had to deposit about Rs 20 lakh from my personal bank account no. 50220006220388 of Bandhan Bank and account no. 086764400001060 of Yes Bank in the mobile no. 6367177842 linked to PhonePe of accused Afsana. Apart from this, due to shortage of money, I had to transfer Rs. 5 lakh from my friend's firm Majeed Export's account no. 259868212729 to accused Hanif's bank account no. 50100401464742 in HDFC Bank on 08.02.2024 and Rs. 6 lakh to accused Mubarik's bank account no. 50100247091375 in HDFC Bank on 09.02.2024. (Details of money transfer are attached) 5. That last month in June 2024, accused Afsana blackmailed me for demanding Rs 20 lakh cash and gold and silver jewellery for her daughter's wedding, due to which the above accused took Rs 15,28000/- from me in the presence of Sunil son of Ratan Singh resident of Dalsia Mohalla, Kalsara Palwal and Rs 4 lakh in front of Qayyum son of Noorshah resident of village Maroda Poothli and I had to buy 100 grams of gold and 1 kg of silver jewellery from a jeweller in Palwal and give it to the above accused, which they gave for Arsana's daughter's wedding. Apart from this, the accused have cheated me of about Rs 1 crore from time to time and the above accused together have cheated me of about Rs 2 crore so far by conspiring under the above blackmail and cheating and forgery in the last 3 years and have been blackmailing me continuously. Due to which I have been completely harassed mentally and financially and I have no option left except suicide, but finally I got fed up and told my brothers about the above incident, after which my brothers and family members consoled me and asked me to take legal action, but the above accused are continuously blackmailing me and demanding more money. But when I refused to give them the money, the accused are threatening to implicate me in a false case and kidnap me and kill me. Apart from this, Haider, a brother of accused Afsana, threatened me several times on my above mentioned phone numbers on 06.07.2024 from his phone number-8307591891 that if you try to take any legal action against us, we will kill you. 6 It is that all the above accused have cheated me of about two crore rupees in the last 3 years by trapping me in their net through fraud and forgery and the accused together have formed a gang to cheat people by trapping them in their net and blackmailing them, *under which the accused cheat people. Therefore, it is requested to you that legal action should be taken by passing an order to register a case against all the accused involved in the above incident as soon as possible and the above gang should be exposed and my life and property should be protected by recovering my looted money. It will be a great favor from you. Applicant Irfan Khan, son of Isak Khan, resident of village Maroda Poothali, police station Nagina, district Nuh. Mobile No.- 9818884904, 9804000000 dated 09.07.2024 Police action - On 10.07.2024, complaint no. 928-PG/SPL DT 09.07.2024 along with documents page number one to 103 along with pen drive containing audio recording was received for taking action, which complaint was given above account number 921010020247037 AXIS BANK account number 50100401464742, 50100247091375 HDFC BANK account HOLD, the bank was informed and the respondent party was given notice to join the investigation, after which on 14.07.2024, through letter number 11-5A DT 14/7/24 from the cyber cell A request was made to hold the Phonepe account no. 6367177842, details of which have been received from the above mentioned Axis Bank, while details of the remaining accounts are awaited, and a notice was given to the respondent party on 15.07.2024 regarding re-joining the investigation, which the respondent party has not joined the investigation even once, today I PSI along with EHC Gajendra 518/Nuhis present in the staff, who after verification and discussion with the fellow officers and perusal of the complaint and from the details of the accounts received, documents and pen drive, an offence under sections 308(2), 61(2), 351 BNS 2023, is found to be committed and EHC Gajendra 518/Nuh is being sent to Police Station Nagina for registering of the case, after registration of the case, case number be informed, I am PSI present staff today CS PO STAFF PUNHANA SD PSI VINIT KUMAR CS PO STAFF PUNHANA DT 17.07.2024 Today, on receipt of the above mentioned complaint at the police station, case no. 194 dated 17.07.2024 under sections 308(2), 61(2), 351(2) BNS Police Station Nagina has been registered and copies of the case are being prepared on computer and Special Report is being sent to Area Magistrate Sahib and senior officers by Special C. Sansar 376/Nuh. The copy of the complaint along with the original is being sent through EHC Gajendra to the investigating officer on the spot. Note - This case is being registered in the presence of INSP/SHO Rakesh Kumar."*

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and he has not committed any offence. He further submits that no amount was ever deposited in the account of the petitioner by the complainant. He asserts that the co-accused persons have already been granted the concession of bail by the trial Court vide orders dated 04.11.2024 and 20.09.2024 (Annexures P-2 and P-3 respectively). He undertakes before this Court that the petitioner is ready and willing to join the investigation.

<u>On behalf of the State/complainant</u>

Learned State counsel prays for dismissal of the present petition on the ground that the complainant got deposited 5 lacs in the bank account of the petitioner from the bank account of his friend Majid and Rs.28,000/- AI Mariam Foods Firm therefore, the custodial interrogation of the petitioner is required.

4. **<u>Analysis</u>**

Be that as it may, having given a considerable thought to the submissions made hereinabove especially to the fact that co-accused of the petitioner has been granted the concession of bail by the trial Court and the antecedents of the petitioner are clean, as he is not involved in any other case, this Court is of the considered view that there is no valid or cogent reason to deny the bail to the present petitioner, wherein he has *bona fide* intentions and is ready and willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **<u>Decision</u>**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

'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.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

05.02.2025

Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*