

VERDICTUM.IN

CRM-M-51753-2022

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

CRM-M-51753-2022

Reserved on: 08.02.2023

Pronounced on: 22.02.2023

Mohd. Jubair

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARAPresent: Mr. Devender S. Punia, Advocate
for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
90	03.03.2022	Pehowa, District Kurukshetra	420 IPC (201,120-B, 467, 468, 471 IPC added later on)

1. The petitioner apprehending arrest in the FIR captioned above on the allegations of an online thuggee, by pretending to be working for Bharti AXA General Insurance Company and duping the complainant, who works in the Central Reserve Police Force [CRPF], for Rs. 14,46,662, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel argues that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. Mr. Manish Bansal, the Deputy Advocate General for the State of Haryana, strenuously opposes the bail and states that the petitioner's custodial interrogation is required to trace the other accomplices and recover the money. He submits that if the Investigator gets evidence against those accused, who have been granted bail, the State shall file applications to cancel all such bail orders.

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REASONING:

5. The complainant, who worked in Central Reserve Police Force [CRPF], alleged that Lalit Kumar, Meenakshi Ben Patel and their accomplices duped him to the tune of Rs. 14,46,662/-. The complainant informed the police that he received phone calls from three numbers, who disclosed his name as Manish. He offered him loans. Initially, the complainant did not believe him but after that the said person kept on calling him and stated that he was speaking from Bharti AXA General Insurance Company. On this, the complainant believed him. After that, the said person asked the complainant to send him the necessary documents like Aadhar Card, Pan Card, Photo and account number. Later on, the said Manish asked him to deposit some money in the account of one Ashwani Kaushik and gave him account number. On his asking, the complainant deposited a sum of Rs.22,000/- in the account of Ashwani Kaushik on 29.04.2021. Later on, under one pretext or the other the said person kept on alluring him to deposit money and he continued to do so. On the asking of said Manish the money was also deposited in the accounts of one Geeta Mishra, Rashmi Dubey, Ravinder Kumar Baghel, Bitulgun Kishan and Nand Kishore. In this way, the complainant had deposited a total sum of Rs.14,46,662/-. The said Manish made him deposit all this money by making him believe to ensure that he gets a massive loan amount. Based on this, the police registered FIR captioned above. The investigation revealed the involvement of so many people belonging to M/s Haxar Insurance Service Private Limited Company, Noida. The investigation further revealed that the call centre operated by the people working in the M/s Haxar Insurance Service Private Limited Company, would conceal their identity and get the money transferred in the bank accounts mostly in the State of Chhatisgarh and Telangana. The investigation further pointed out towards the involvement of the present petitioner because of the transfer of Rs.1,17,170/- in his account from the account of co-accused Rishikesh Tiwari to whom the money had come from the person in whose name it had been got deposited by the main caller.

6. The Investigator found out the evidence of the following bank transfers from the account of his co-accused Rishikesh Tiwari to the account of the petitioner Mohammad Zubair:

Sr.No.	Dated	Account of Accused Mohd. Jubair	Amount in Rs.
1.	16.04.2020	ACC No. 87692200142300 IFSC CNRB0008769	10,000
2.	14.08.2020	ACC No. 87692200142300 IFSC CNRB0008769	3000
3.	14.08.2020	ACC No. 87692200142300 IFSC CNRB0008769	500
4.	16.08.2020	ACC No. 87692200142300 IFSC CNRB0008769	5000
5.	30.08.2020	ACC No. 87692200142300 IFSC CNRB0008769	12100

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6.	26.02.2022	ACC No. 87692200142300 IFSC CNRB0008769	6500
7.	26.02.2022	ACC No. 87692200142300 IFSC CNRB0008769	3600
8.	06.03.2022	ACC No. 87692200142300 IFSC CNRB0008769	9000
9.	15.03.2022	ACC No. 87692200142300 IFSC CNRB0008769	5170
10.	27.03.2022	ACC No. 87692200142300 IFSC CNRB0008769	30000
11.	07.04.2022	ACC No. 87692200142300 IFSC CNRB0008769	5000
12.	13.04.2022	ACC No. 87692200142300 IFSC CNRB0008769	500
13.	15.04.2022	ACC No. 87692200142300 IFSC CNRB0008769	18800
14.	22.04.2022	ACC No. 87692200142300 IFSC CNRB0008769	3000
15.	02.04.2022	ACC No. 87692200142300 IFSC CNRB0008769	5000
16.	01.05.2022	ACC No. 87692200142300 IFSC CNRB0008769	8000
		Total	1,17,170/-

7. The modus operandi of these call-center thugs is that operating in a pack, one gets in touch with a vulnerable suspect through malicious links sent through phishing or by making calls on their numbers. They get access to these numbers from the dark web, where another set of criminals keeps selling people's personal information, like their mobile numbers, e-mails, and even AADHAR numbers, bank account details, PAN, passport details, date of birth, etc. They interact as per a specifically designed transcript. After taking such victims in confidence, they would pass on the call to their accomplices by referring to them as their managers. Whenever these thugs find that the victim is slipping away, they bring another gang member by referring them as a senior manager, who would again entrap the person. They also prefer female gang members to speak to the male victims. They work and operate in criminal conspiracy and target to siphon money from the victim's accounts. All these thugs who attend such calls or become instrumental in the cycling of the funds, prima facie, are fully aware of the motive and style of the gang's operations, which is to rob the susceptible victim of as much money as possible and continue to do so until such a person runs out of liquidity. Besides being middle-aged or old, most victims are simple, honest, and truthful people who believe these thugs to be like them. They do not know any technology except some basic features of smartphones, and this little knowledge makes them vulnerable to cyber-thugs. Unfortunately, the maximum number of cyber criminals operate from our country, bringing a terrible name to the nation.

8. The evidence collected so far points out the transfer of funds from the accounts of the other accused in which it was deposited and subsequently laundered. It prima facie appears that the petitioner also got his share through bank transfers. The petitioner was working in M/s Haxar Insurance Service Private Limited and has annexed his appointment letter as Senior Customer Service Executive at M/s Haxar Insurance

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Service Private Limited, B-41, 2nd Floor, Sector-63, Noida-201301 Ph. 0120-4900707, Web.: www.haxarservices.com. In paragraph 4 of the bail application, which is supported by the petitioner's affidavit, and is duly notarized, the petitioner states as follows, "*That some of the other officials of the Company duped the complainant. Some officials telephonically lured the complainant to provide him loan at a lower rate of interest. However, they failed to provide any loan to the complainant.*" The petitioner admits the knowledge of the crime and the same taking place through the premises of Haxar Insurance Service Private Limited, where he worked, and the thuggee being done by some employees of Haxar Insurance Service Private Limited but did not explain the transfer of money to his account. The petitioner did not explain the reasons for such a money transfer. Thus, prima facie, there is sufficient evidence to connect the petitioner with the proceeds of crime and his operating as a conduit and an active member of the gangs of online thugs. The evidence indicates that the petitioner and his accomplices operate as online thugs. The sly way the petitioner's accomplice, in connivance of the petitioner and other thugs, conned, tricked, deceived, swindled, and defrauded the gullible complainant pointed out the dangerous indicator that the thuggee has revived, and if not sternly dealt with now, it might upsurge, revisiting the history. Any further discussions will likely prejudice the petitioner; this court refrains from doing so. Given the allegations' nature and the offense's gravity, the petitioner is not entitled to anticipatory bail.

9. The petitioner also seeks bail on the grounds of parity with co-accused. One of the co-accused was granted bail because at that point of time, the State did not bring to the notice of the Court about transfer of crime proceeds. Thus, petitioner is not entitled to bail on the grounds of parity with the co-accused. The evidence collected by the Investigator points out towards the petitioner's roll in the said online thuggee and the petitioner cannot claim parity with the co-accused because he is an active member of the gang of online criminals. The custodial interrogation of the petitioner is required to find out the involvement of other co-accused and also the involvement of the management of M/s Haxar Insurance Service Private Limited. Needless to say that in case the Investigator finds sufficient evidence connecting those accused who have been granted bail, it shall be permissible to file an application for cancellation of such bail by referring to such evidence.

10. In *Jai Prakash Singh v. State of Bihar and another* (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima

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facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305].

11. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[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 favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring 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 disinterring offences would not conduct themselves as offenders.

12. In the light of these judicial precedents coupled with the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed and interim protection recalled with immediate effect. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

22.02.2023

Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: YES.