

227

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

CRM-M-54653-2022(O&M)

Date of Decision: 15.03.2023

BIKAU

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr.Shantanu Bansal, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. Ankur Gupta, Avocate
for the complainant.

HARSH BUNGER, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.217 dated 30.11.2021 registered under Sections 381 and 408 of Indian Penal Code, 1860 and Section 66 of the Information Technology Act, 2000 at Police Station Phase-I, SAS Nagar (Annexure 1).

Custody certificate dated 15.03.2023 of the petitioner filed by the learned State counsel is taken on record, subject to all just exceptions.

Succinctly, the FIR in question was lodged on the complaint of one Amarnath, Assistant Manager and Authorized representative, M/S Teleperformance Global Service Private Limited, A-40, Phase 8B, Industrial Area, Sector 75, SAS Nagar, Mohali, stating therein that petitioner was employed with the above stated company i.e. M/S Teleperformance Global

Services as Customer Care Executive. The complainant-company is engaged in business of providing outsourcing services to its various clients and in order to cater the clients properly, the clients of the complainant-company provides database to it. It is stated that in Mohali office of complainant-company, certain number of employees are involved in executing and providing services as per the business relationship with client and in view of the services, the complainant-company and its employees have permitted access to certain confidential information of the client wherein this information involves KYC documents (passport etc) of the customers of client. On 27.07.2021, complainant-company received an e-mail from its client that there was a data breach and confidential documents had been published on Social Media Platform viz. Twitter, under the Twitter Handle Name @Ajaychaudhary420 on 26.07.2021. During the internal investigation carried out by the company, it came to light that the petitioner had without authorisation, accessed the confidential information that matches with information available at aforementioned Twitter handle and as such the present FIR came to be registered against the petitioner.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. It is submitted that the twitter handle in question, through which the information has been leaked, does not belong to the petitioner and no role can be attributed to petitioner. It is further submitted that investigation of the case is complete and even charges have been framed on 19.01.2023. It is further stated that out of total 06 witnesses none has been examined so far. Learned counsel further submits that the petitioner is in judicial custody since 11.10.2022 and his total custody as on 15.03.2023 is 05 months and 03 days. It is

submitted that even as per FIR, the details regarding Twitter account @Ajaychaudhary420 are awaited from Twitter. Learned counsel further submitted that the petitioner is not involved in any other case. It is submitted that the petitioner had applied for grant of regular bail before the learned Additional Sessions Judge, S.A.S. Nagar (Mohali), which has wrongly been dismissed vide order dated 04.11.2022 (Annexure P-2). Learned counsel further submits that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence. Learned counsel for the complainant has also vehemently apposed the prayer of regular bail to petitioner in this case by submitting that the complainant-company has a business agreement (Service Agreement) Annexure R-1, with onfido limited, a company having its principle place of business at 3 Finsbury Ave, London. It is stated that from the screenshots (Annexure R-2) of the tweets it is seen that unknown person had created a YouTube Channel and had purportedly published a YouTube Video (Link: youtu.be/nuRhicsjhg0) in the said tweet wherein he has tagged and highlighted the name of the client, in furtherance of the breach of confidentiality as duly signed between the petitioner and the complainant-company. He further submits that the petitioner claims to have collected 20,000/- to 25,000/- such images thus going to show that he has clearly breached his obligations under the letter of appointment dated 01.02.2021, his obligations under the Declaration and Undertaking Regarding Non-Disclosure, his obligations under the confidentiality acknowledgement and his obligations under the

confidentiality acknowledgement and his obligations under the Privacy Policy (Employee Acceptance Form). It is submitted that the complainant-company's client's proprietary training videos contained in the YouTube account to which one of the Tweets was redirected has been blocked by YouTube on 27th July 2021. However, the YouTube links to the complainant-company's proprietary training videos can be seen in the screenshots of Youtube (Annexure R-3). However, learned State counsel as well as counsel for complainant does not dispute the fact that present petitioner has been in custody since 11.10.2022 and investigation is complete and charges have been framed on 19.01.2023. It is also not disputed that petitioner is not involved in any other case.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of the petitioner handed over by learned State counsel, in Court today.

In this case, the petitioner has been in custody for the last five months and three days as on 15.03.2023. Charges have been framed on 19.01.2023 and out of total 06 witnesses none has been examined so far. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency

of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity.

In addition, the petitioner (or any one on his behalf) shall prepare a FDR in the sum of Rs.50,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

15.03.2023

Amandeep

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No