

202-3 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-59561-2022
Date of Decision: 03.03.2023

Sahil Sharma

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. Subhash Godara, Additional A.G., Punjab.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 of the Code of Criminal Procedure is filed seeking grant of anticipatory bail to the petitioner in case FIR No.50 dated 04.11.2022, under Sections 120-B & 381 of the Indian Penal Code and Section 66 of the Information Technology Act, 2000, registered at Police Station State Cyber Crime, District S.A.S. Nagar, Mohali.

On 20.12.2022, the following order was passed by a co-ordinate Bench of this Court :-

“Learned counsel for the petitioner inter alia contends that the present petitioner was employed with the complainant's company SRP Digital Services Private Limited as Sales Executive vide Appointment Letter dated 28.10.2021 and was to procure customers who want to deliver goods from one city to another. It is submitted that due to the Covid wave and lockdown, the company was managing its affairs through

“Work from Home policy” and the petitioner was also working from home. It is further submitted that with the permission of the company and Sales Manager Mr. Bali, the petitioner used to send relevant record for work through emails to his own personal email address since the company data and email could not be accessed through company computer and then used to interact with clients and procure the sales leads and thereafter, the said data was transferred to the company along with the sales records and the profit directly went into the accounts of the company. It is contended that for the duration of the offence which is alleged to have been committed as per the FIR, the profits earned were directly received by the company and no amount has been ever received into the personal account of the petitioner and that the petitioner, who is 22 year young man, was pursuing his Bachelors of Arts Degree from DAV College at the relevant time and in the first week of May, 2022, the examination schedule of final year was notified and exams were to commence on 22.06.2022 and thus, the petitioner resigned from services on 11.05.2022. It is further contended that salary and incentives towards the petitioner were due and the same were not being paid by the company and thereafter, the petitioner got employment at M/s Pick and Drop Logistic Private Limited which is competitor of the complainant's company. It is argued that in order to avoid paying the present petitioner, the complainant has himself filed civil suit seeking injunction against the petitioner and other ex-employees and in the said civil suit, the petitioner has already filed written statement. It is also submitted that thereafter, the present FIR has been registered roping in the petitioner and other ex-employees who had left the company. It is also contended that neither any data has been transferred by the petitioner to any third parties or the competitor, nor any gratification has been received by the petitioner and that even, as per the Forensic Examination Report and Analysis

Report, there is no evidence qua sending of the data to the competitor companies. It is also argued that the petitioner had joined enquiry on 06.10.2022 and even submitted his reply and is further ready to further assist during the investigation and that the entire record is based on documents and thus, the custodial interrogation of the petitioner is not required. It is further contended that the co-accused of the petitioner i.e. Madhuri has filed CRM-M-57937-2022, in which, this Court was pleased to issue notice of motion and had granted anticipatory bail and the case of the present petitioner is on a similar footing as that of said Madhuri.

Notice of motion for 25.01.2023.

In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

To be heard alongwith CRM-M-57937-2022.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.

Learned State counsel, on instructions from Sub Inspector Devender Kashi, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, order dated 20.12.2022, passed by a co-ordinate Bench of this Court, is made absolute.

However, the petitioner shall continue to join the investigation

as and when required to do so and abide by all the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that if the petitioner fails to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Present petition is accordingly disposed of.

03.03.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No