

HIGH COURT OF PUNJAB AND HARYANA**Date of Decided: 15.03.2024****Bench: Jasjit Singh Bedi, J.**

CRM-M-901 of 2024

Sanesh Kumar - Petitioner**Versus****State of Haryana & others - Respondents****Legislation:**

Section 438, 482 of the Cr.P.C.

Sections 66(C), 66(D) of IT Act

419, 420 of the IPC

Subject:

Petition for transit anticipatory bail to join investigation in a cybercrime case in Hyderabad.

Headnotes:

Transit Anticipatory Bail - Grant of - Cyber Fraud Case – CRM-M-901 of 2024 - Petitioner seeking transit anticipatory bail in a case registered at Cyber Crime Police Station, Hyderabad for alleged involvement in cyber fraud - FIR registered for offenses under Sections 66(C), 66(D) of IT Act and 419, 420 IPC - Court, relying on precedent in Priya Indoria Versus State of Karnataka & others, 2023(4) Law Herald (SC) 3279, grants transit anticipatory bail for 15 days to enable petitioner to approach the competent court in Hyderabad for anticipatory bail - Observes that courts can exercise jurisdiction and entertain pleas for transit anticipatory bail even if FIR not filed within territorial jurisdiction - Decision ensures access to justice and acknowledges presumption of innocence. [Paras 1-9]

Cyber Crime Investigation – Jurisdictional Concerns – Analysis - Court recognizes the challenge of jurisdiction in cybercrime cases - Emphasizes that courts have the power to grant transit anticipatory bail in cases registered outside their territorial jurisdiction - Upholds the principle of access to justice and presumption of innocence until proven guilty - Reiterates the approach established in the case of Priya Indoria, emphasizing flexibility in judicial process for cyber crimes spanning multiple jurisdictions. [Paras 6-7]

Order – Transit Anticipatory Bail Granted - In light of the precedents and circumstances, the Punjab and Haryana High Court grants transit anticipatory bail to petitioner for 15 days - Directs petitioner to file a petition for anticipatory bail in the competent court in Hyderabad, Telangana - Clarifies that no opinion expressed on the merits of the case, leaving the matter to be determined by the court of competent jurisdiction. [Paras 8-9]

Referred Cases:

- Priya Indoria Versus State of Karnataka & others etc., 2023(4) Law Herald (SC) 3279, decided on 20.11.2023.

Representing Advocates:

Mr. Mohit Rathee for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana for the respondents.

JASJIT SINGH BEDI, J. –

The prayer in the present petition under Section 438 read with Section 482 Cr.P.C. is for the concession of transit anticipatory bail for a period of 15 days to join investigation before the investigation authority i.e. Cyber Crime Police Station Hyderabad City in case Crime No.2119/2023 of Cyber Crime Police Station, CCS, Detective Department, Hyderabad City and to approach the competent court at Hyderabad in the State of Telangana if so required.

2. The FIR in question came to be registered on the complaint of Ravishankar son of K Gopal and the same reads as under:-

“IN THE COURT OF HON'BLE XII ADDL CHIEF METROPOLITAN MAGISTRATE AT HYDERABAD. Today i.e. On 11.09.2023 at 11:30 hours received a complaint from K Ravishankar, S/o K Gopal, Age: 41 Years, Occ: Private employee, R/o: o 12-2-500/8, Plot no 8, fair view apt, flat 201, Sai gardens, near Sai baba temple, Gudimalkapur, Mehdipatnam, Hyderabad 500028, Phone No: 8790311882 as follows. To, The Asst. Commissioner of Police, Cyber Crime Police Station, Hyderabad. Respected sir, Sub : fraud through telegram online pre-pay tasks I, K Ravishankar, S/o K Gopal, age 41, occupation: private sector employee, R/o 12-2-500/8, plot no 8, fair view apt, flat 201, Sai gardens, near Sai baba temple, Gudimalkapur, Mehdipatnam, Hyderabad 500028, Phone No: 8790311882, would like to submit that on 01-09-2023 I received message at Whatsapp from bearing number 8002823796 who stated there is opportunity to earn without any investment fees where I

have to like and share the amazon advertisement by taking screenshot to them and I will earn. They later asked me to finally open Telegram and give details at [HTTP://t.me/KJHDF9898](http://t.me/KJHDF9898) or search @KJHDF9898 (ACCOUNTANT) to get registered. Further they sent me telegram Id @Anika9111, @caicai369, @amazoncncn, and said to follow them at telegram for further orders to complete the task. I agreed and followed their instructions and completed the task where she sent me small amount into my account. In that manner she sent me tasks and said me to complete tasks and later they said I can earn approximately 30% returns by doing PREPAID tasks and I can withdraw amount. So like that I paid them approximately RS 17,73,688.00 lakh using my account as well as my wife account for 2/3 days. Now, they said I have to pay again 8 lakh which they said is refundable and kept asking me to transfer. Then I realized something is wrong and later I came to know from Internet about the Telegram prepaid fraud and I became victim of this scam. I also had called Cyber Crime at 1930 and lodged a complaint: Complaint Acknowledgement No. 33709230032353 Hence I request the kind officer to take necessary action against them and kindly have my approx RS 17,73,688.00 lakh refunded to my account/wife account. Date of Transaction Bank details of Victim Amount lost Fraud beneficiary Transaction ID 02-09-2023 024301519953 116800 324512207858 02-09-2023 024301519953 168000 C120806537 02-09-2023 024301519953 269800 C120822093 02-09-2023 024301519953 50000 324610796803 02-09-2023 004001540628 250000 324518307382 02-09-2023 004001540628 419088 324516041613 02-09-2023 910010041141970 50000 324516677593 1773688 Debited Transaction Details of Victim: Transaction Id Victim Account Number Date Amount Debited Bank 324512207858 024301519953 02/09/2023 116800 ICICI Bank C120806537 024301519953 02/09/2023 168000 ICICI Bank C120822093 024301519953 02/09/2023 269800 ICICI Bank 324610796803 024301519953 03/09/2023 500000 ICICI Bank 324518307382 004001540628 02/09/2023 250000 ICICI Bank 324516041613 004001540628 02/09/2023 419088 ICICI Bank 324516677593 910010041141970 02/09/2023 50000 Axis Bank Credited Transaction Details to Fraud Beneficiary: TransactionId Fraud Account Number Date Amount Credited Bank 324512207858 1878102100000505 02/09/2023 116800 Punjab National Bank (including Oriental Bank of Commerce and United Bank of India) C120806537 015505008948 02/09/2023 168000 ICICI Bank C120822093 003063300010894 02/09/2023 269800 Yes Bank 324610796803 4669002100002248 03/09/2023 500000 Punjab National Bank (including Oriental Bank of Commerce and United Bank of India) 324518307382 0222102100000514 02/09/2023 250000 Punjab National Bank (including Oriental Bank of Commerce and United Bank of India) 324516041613 259090430600 02/09/2023 419088 INDUSIND Bank 324516677593 658205603060 02/09/2023 50000 ICICI Bank Thanking you, //THE ORIGINAL COMPLAINT IS ENCLOSED HEREWITH// Received on 11.09.2023 at 11:30 hour As per the above content I B. Narender Reddy, SIP registered a case in Cr.No.2119/2023, U/Sec 66(C) 66(D) IT Act and U/Sec 419, 420 IPC of Cyber crime police station, Hyderabad city and the case file handed over to Sri Ch Gangadhar Inspector of Police for further investigation. Sd/- (B. Narender Reddy) Sub-Inspector of Police, Cyber Crime PS, CCS, DD, Hyd.”

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. Be that as it may, he was ready and willing to join investigation for which he was seeking transit anticipatory bail for a period of 15 days enabling him to join investigation and/or approach the Court of competent jurisdiction at Hyderabad, Telangana. Reliance is placed on the judgment in Priya Indoria Versus State of Karnataka & others etc., 2023(4) Law Herald (SC) 3279, decided on 20.11.2023.

4. On the other hand, the learned State counsel while referring to the reply dated 06.03.2024 contends that as the interrogation of the petitioner was required by the Cyber Crime Police, Hyderabad to finalise the investigation, he was not entitled to the concession of transit anticipatory bail.

5. I have heard the learned counsel for the parties.

6. In Priya Indoria (supra), it was held as under:-

“46. If a rejection of the plea for limited/transitory anticipatory bail is made solely with reference to the concept of territorial jurisdiction it would be adding a restriction to the exercise of powers under Section 438. This, in our view, would result in miscarriage and travesty of justice, aggravating the adversity of the accused who is apprehending arrest. It would also be against the principles of access to justice. We say so for the reason that an accused is presumed to be innocent until proven guilty beyond reasonable doubt and in accordance with law. In the circumstances, we hold that the Court of Session or the High Court, as the case may be, can exercise jurisdiction and entertain a plea for limited anticipatory bail even if the FIR has not been filed within its territorial jurisdiction and depending upon the facts and circumstances of the case, if the accused apprehending arrest makes out a case for grant of anticipatory bail but having regard to the fact that the FIR has not been registered within the territorial jurisdiction of the High Court or Court of Session, as the case may be, at the least consider the case of the accused for grant of transit anticipatory bail which is an interim protection of limited duration till such accused approaches the competent Sessions Court or the High Court, as the case may be, for seeking full-fledged anticipatory bail. (emphasis supplied)

7. A perusal of the aforementioned judgment would reveal that the Court of Sessions or the High Court as the case may be can exercise jurisdiction and entertain a plea for limited anticipatory bail/transit bail by way of interim protection for a limited duration even if the FIR has not been filed within its territorial jurisdiction.

8. In the instant case, admittedly, the FIR has been registered at Police Station Cyber Crimes, Detective Department, Hyderabad City. Therefore, I do not deem it appropriate to examine the merits of the contentions raised by the petitioner but dispose of the present petition with the directions that the arrest

of the petitioner shall remain stayed for a period of 15 days from today to enable him to file an appropriate petition for the grant of anticipatory bail before the appropriate Court at Hyderabad in the State of Telangana.

9. It is made clear that I have expressed absolutely no opinion on the merits of the case which shall be examined by the Court of competent jurisdiction.

Order accordingly.

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