

**IN THE COURT OF ASHWANI KUMAR,
DUTY/ADDITIONAL SESSIONS JUDGE,
GURUGRAM. (UID No. HR0156).**

CNR NO. HRGR01005654-2020

CIS No. BA/2185/2020.

Date of Institution: 31.07.2019

Date of Decision: 10.08.2020

Dr. Kislay Pandey son of Sh. Ram Mani Pandey, R/o Kothi No. 1/2 Villa
A.B Amarpali Society, Greater Noida, District Gautambudh Nagar, U.P.

....Petitioner-accused

Versus

State of Haryana.

....Respondent.

**FOURTH BAIL APPLICATION ON BEHALF OF
ACCUSED UNDER SECTION 438 Cr.P.C.**

Argued by: Shri Ramniwas Yadav, learned Public Prosecutor for State.
Sh. Shyambir Singh, learned Advocate for complainant.
Sh. Parshant Yadav, learned Advocate for accused.

ORDER :

This order of mine shall dispose of fourth bail application filed u/s 438 Cr.P.C. by petitioner Kislay Pandey in case FIR No.216 dated 4.6.2019, for the commission of offences punishable under sections 468,469,385,389,467,471,473,420,506 IPC with section 120-B IPC, PS Udyog Vihar, Gurugram.

2. Bereft of unnecessary details, the facts necessary for disposal of the present bail application are that a complaint was received from higher police officers on 4.6.2019 which was moved by complainant Ashok Sehrawat, while maintaining that the complainant was authorized to present the complaint being authorized by the company. Indiabulls Group is a

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leading business Group of India having established its reputation in various fields including financial services, real estate, securities etc. Results of Indiabulls Group Companies are published from time to time and are in public domain through their website and in routine course, in last week of April, 2019, a call was received at their reception from some unknown person who had requested to transfer the call to some senior person and as such it was not entertained initially, but when that person called 2-3 times, then the receptionist had transferred the call to the complainant. During telephonic conversation, he introduced himself that they may consider him as well-wisher of Indiabulls. He disclosed that he is in possession of many internal details/documents which can be damaging to his companies and he threatened that he can circulate the same to various departments which can destroy the reputation of the entire Indiabulls Group Companies and can also cause huge financial losses amounting to thousands of crores to his company and specifically to investors of the company. Complainant enquired about his name and requested him to disclose his identity and complainant further asked about contents and documents relating to such threats, but he simply said that if he wants to secure the interests of company, he will have to meet him. Complainant again insisted him to disclose his identity, but he was not keen to tell and complainant did not take that call seriously treating the same as a hoax call and ignored it. Next day, he called again on board number and asked for complainant and after the concerned person transferred the call to complainant, he repeated the same story and again threatened the

complainant to meet and fulfill his illegal demands. First of all, complainant specifically told him that his company follows law of land, but if he has some doubt then he should share it with the complainant, whereupon he disclosed his name as Ram Mani Pandey and started uttering that *TUMHARI BHALAI ISI MEIN HAI KI* you speak to concerned senior officials and let complainant know otherwise *main tum logon ka band baja dunga*. He had given the complainant two numbers to contact i.e. 9899419447 and 9870278925 and he specifically instructed to call him only through whatsapp or internet and refused to talk anything further on landline. He also threatened that if he dared to inform any police authority or any other authority, then he and his company should be ready to face dire consequences. Complainant requested him to share information and documents through e-mail and by any other communication, but to no effect. On 27th May, Anil Malhan Senior of complainant received a call from one person namely Rammani Pandey on whatsapp and again repeated the same story telling him that his colleague Ashok did not respond to him and he is not taking his calls, whereupon Mr.Malhan also specifically told him that company always follows all rules and regulations and then insisted and asked him why does he want to do all this, then he said “*ab kaam ki baat ki na*”. He specifically told that he can hold these activities and send withdrawal letters to Government Agencies in their presence if they pay him money and fulfill his demands. Mr. Anil Malhan told him that they would call him later and next day, Mr.Malhan discussed it with the complainant and

asked him to call him and check veracity of Rammani Pandey as to what exactly does he want for that either meet him or speak to him. Next day, he again called him and on asking, he said that if he want to get out from all these things then he has to pay minimum Rs.10 Crores in two parts as in initial part he will have to pay Rs.5 Crore when they meet and complainant show him the copy of complaints already sent to various government departments and second installment of Rs.5 Crores after withdrawal of complaint letters which were sent to various government departments. He had also discussed this thing with Mr.Anil Malhan and considering the grave circumstances, they decided not to entertain such unscrupulous person and his illegal demands. Considering the facts and circumstances, they were constrained to file complaint against accused Ram Mani Pandey and his associates as a gang of blackmailers which was operating in the society and after managing false complaints of company like Indiabulls to blackmail and extort money for their personal financial gains and for causing wrongful loss to the company at large through forged documents. The complainant had requested for taking legal action against the accused persons. Although the complainant had made the complaint against Vikas Shekhar but later on it was found that Vikas Shekhar accused was only mouth piece of Ram Mani Pandey and his son Kisley Pandey as they had hired the services of Vikas Shekhar on the monthly payment of Rs. 25,000/-. Precisely with these averments the case was registered against the accused. On 08.06.2019, accused Vikas Shekhar was arrested and in his disclosure statement, he had

disclosed the involvement of accused Kislay Pandey. Hence the present anticipatory bail application moved on behalf of accused.

3. Notice of the bail application was given to the prosecution which has filed its reply by maintaining that the applicant can commit similar type of offence again if he is released on bail and it is not for the first time that the present accused has indulged such type of activities. It is averred by the prosecution that from the laptop of father of the accused/petitioner, it has transpired that he had made fictitious phone calls to at least 2200 persons and recording of all those phone calls is available in the said laptop. In some of the phone calls the father of the accused has impersonated as Additional Solicitor of General of India as well as a vigilance officer.

4. Prosecution has further maintained that during investigation, Sections 420, 511, 468, 469, 385, 120-B IPC were added. It was also found that accused Kislay alongwith his father had made several extortion calls to Indiabulls in which they had threatened the company's owner to make the payment. Besides it the prosecution has maintained that although co-accused Vikas Shekhar has been granted bail by this Court but his case was altogether different from the case of the present accused as Vikas Shekhar was only an employee of the present accused whereas present accused and his father are kingpins of the money extraction gang. Moreover, this court has already rejected the bail application of present accused Kislay Pandey and with these averments, prosecution has prayed for rejection of bail

application.

5. On the other hand, learned counsel for the accused has argued that Ld. Trial court had dropped the offences under sections 464, 465, 384, 388, 419, 511 IPC. All the offences are bailable except offences under Sections 467 and 420 IPC. Nothing is to be recovered from the possession of accused. The report under Section 173 Cr.P.C qua the co-accused has been presented before the learned Trial court. The petitioner is the victim of the influence and political power of the complainant. The documents have already been seized by the police. The petitioner is ready to join the investigation. The petitioner is medically unfit and needs medical treatment. With these submissions, it has been prayed that accused may kindly be admitted to anticipatory bail.

6. Arguments advanced by learned counsel for the parties have been heard at length and file has been perused and after having perused the case file minutely, this Court has arrived at the conclusion that present bail application deserves dismissal.

7. In this context, first of all this court finds it appropriate to maintain that during the course of arguments, Ld. PP has submitted that two criminal cases have been registered against the accused for various offences including offences punishable under section 420/406/170/120-B IPC and for ready reference, particulars of those cases are reproduced as under:

Sr.No	Case Type	No.	PS	Act/Sec
1.	FIR	598/2019	Distt, Agra	406/420/467/468/471/120-B IPC
2.	FIR	23/2020	Delhi	419/420/467/468/471/120-B IPC

8. There is a strange similarity between the cases of present accused/ petitioner and co-accused/his father Ram Mani Pandey, whose bail application had been dismissed by this court vide order dated 22.07.2019 as Sh. Ram Mani is also facing trial in ten criminal cases and particulars of those cases are also incorporated in this order as well details of which are as under:

Sr.No	Case Type	No.	PS	Act/Sec	Dated	Court
1.	FIR	580/2006	NA	170, 419, 406, 420, 384, 120B IPC	18.07.2006	KARKARDOOMA COURT, DELHI, DELHI.
2.	FIR	643/2006	NA	170,406,419, 420,384,120 B IPC	18.07.2006	KARKARDOOMA COURT, DELHI, DELHI.
3.	FIR	CC 10/2005	NA	170,419,420, 120B,106 IPC	07.08.2005	KARKARDOOMA COURT, DELHI, DELHI.
4.	FIR	CC NO.5756 /2007	NA	138 NI ACT	07.08.2007	KARKARDOOMA COURT, DELHI, DELHI.
5.	FIR	22/07	NA	138 NI ACT	31.08.2007	KARKARDOOMA COURT, DELHI, DELHI.
6.	FIR	4040/200	NA	357 CRPC	31.08.2006	KARKARDOOMA

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		6				COURT, DELHI, DELHI.
7.	FIR	4039/2006	NA	357 IPC	04.09.2006	KARKARDOOMA COURT, DELHI, DELHI.
8.	FIR	4038/2006	NA	357 IPC	04.09.2006	KARKARDOOMA , COURT, DELHI, DELHI.
9.	FIR	SUIT NO.260/ 03/02	NA	138 NI ACT	04.09.2007	TIS HAZARI COURT DELHI, DELHI.
10.	FIR	95/2002	NA	336,506,34 IPC 27 A ACT	04.09.2002	KARKARDOOMA COURT, DELHI, DELHI

9. Although, father and son are practising advocates at Delhi and are running a law firm and Ram Mani is in legal profession for the last 35 years and ten cases have been registered against him whereas present accused petitioner is in this profession for the last seven years approximately and he is facing trial in other criminal cases and this is the history of family of accused which reflects that accused petitioner is seriously involved in illegal activities fearlessly and concession of anticipatory bail is not meant for such type of persons because basic purpose of introduction of Section 438 Cr.P.C in the criminal procedure code was to protect the innocent persons from going to jail only on account of registration of FIR against him and this provision is not meant for habitual criminals who have no respect for law of the land and it would also not be out of place to maintain that after practicing for 35 years before Hon'ble Supreme

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Court of India , legal licence of the father of the present accused was found to be fake and a report in this regard has already been submitted in the court.

10. Another important aspect of the present case is that before filing the present bail application, present accused Kislay Pandey had filed another petition for grant of anticipatory bail wherein notice was given to the prosecution whereupon Ld. Counsel for the complainant had appeared in the court and had raised serious objections that the bail application did not bear the signatures of the accused, whereas the power of attorney which was enclosed with the anticipatory bail application was bearing his fake signatures. When this question was raised, then Ld. Counsel for the accused had withdrawn the said bail application and subsequently, another bail application had been filed which has been attested at Dubai and signatures of the accused/petitioner which are appended on the bail application were altogether different from the signatures which were available on the power of attorney enclosed with the previous bail application. Although, at this stage, no concrete finding can be given with regard to fabrication of signatures of the accused/petitioner on the previous power of attorney but prima facie the signatures on the previous power of attorney and on the bail application and the power of attorney did not tally at all and this fact clearly establishes that the accused/petitioner is least scared off the legal consequences of

playing with the process of the court because he has been going through such type of process in routine and as such conduct of the accused dis-entitles him from getting the extraordinary relief of anticipatory bail.

11. Another circumstance of the present case which reflects the conduct of the accused is apparently clear from the zimni orders passed in CR No. 09/15 and CR No. 07/15 by the court of Sh. Lalit Kumar, Ld. ASJ/ Kadkaddooma Courts, New Delhi. These orders have been passed in criminal matters wherein in CR No. 09/15, the present petitioner/accused was facing trial. Perusal of these orders reveal that court of Ld. Addl. Sessions Judge, was informed that accused Kislay Pandey was absent on 25.07.2019 because he was having blood clotting in his brain and he was advised surgery within 2-3 days and few medical documents were also produced in the court whereupon the case was adjourned. In the second order, which was passed in petition no. 07/15 it is depicted that on that day, Ram Mani Pandey (father of the present accused) had not appeared in the court and request was made for adjournment on the ground that he was looking after his ailing son Kislay Pandey who was having blood clotting and was advised surgery within 2-3 days. Perusal of both these orders reveal that false medical certificate was produced before the court because on that day, accused Ram Mani was in custody and present accused Kislay Pandey had fled away to Dubai and this fact

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also establishes the audacity of the accused to go to any extent to get the desired relief from the court and at the cost of repetition, this court does not find it out of place to maintain that accused persons are frequent habituals of playing with the criminal justice delivery system and they know how to twist the facts and to misguide the court.

12. Ld. Counsel for the accused had produced Photostat copy of letter alleged to be issued by Dr. Subramanyam Swamy which is addressed to Sh. Narendra Modi, Hon'ble Prime Minister of India against the complainant concern but at this stage, no benefit can be extended to accused on account of writing of this letter by Sh. Subramanyam Swamy specially when its authenticity is yet to be ascertained.

13. During advancing arguments on the previous bail application, learned counsel for the complainant had produced a detailed chart containing the names of various persons who had been cheated by the accused along with his father in order to send false criminal complaints against the individuals as well as the established companies so that money can be extracted from them and the said chart was produced in the court and besides it learned counsel has also placed on file the copy of order dated 11.03.2019 passed by Shri Sanjay Garg Special Judge (PC Act) CBI-I, Dwarka Courts, New Delhi wherein father of present accused Ram Mani Pandey has been shown to be on bail where as his other associate Ram Niwas Dhuriya

and Sanju Pandey were marked as absent. From perusal of the said order it is apparently clear that family of the accused is facing trial before CBI Court as well and in all these circumstances which have been discussed above this Court finds that administration of justice does not require that accused should be extended the benefit of anticipatory bail and the bail application stands dismissed.

14. During arguments, Ld. Counsel for the accused has placed reliance on the observations made in case titled as **Ganesh Raj Vs. State of Rajasthan and other 2005(3) RCR Criminal 30 and State of Maharashtra Vs. Capt. Buddikota Subba Rao 1989 (2) RCR Criminal 612**. However, the observations made in the authority (supra) are not applicable to the facts of the present case because each case has been decided on the basis of its individual facts and circumstances and facts of the present case are altogether different from the facts of the authority referred to above.

15. The first anticipatory bail application has already been dismissed by this court vide order dated 30.07.2019. Even after dismissal of anticipatory bail application by this court, the accused had approached Hon'ble High Court for quashing of FIR wherein all these identical grounds were taken by the accused which were not accepted even by Hon'ble High Court. No new ground is made out which can entitle the accused to be released on bail.

16. It would not out of place to maintain that just after lodging

present FIR, the accused had left the country and for the last one year, he is residing abroad and as such the accused is successfully avoiding his arrest despite the fact that police is putting every efforts to effect his arrest and it is also an important fact which dis-entitle the accused from getting the extraordinary relief of anticipatory bail. As per prosecution version, the proclamation proceedings have been initiated against the accused.

17. In view of above discussion, the bail application moved on behalf of accused/petitioner stands dismissed. File be consigned to record-room after due compliance.

Pronounced in open Court:
Dated: 10.08.2020

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Note: This order comprises of thirteen pages and each has been checked and signed by me.

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Argued by: Shri Ramniwas Yadav, learned Public Prosecutor for State.
Sh. Shyambir Singh, learned Advocate for complainant.
Sh. Parshant Yadav, learned Advocate for accused.

Bail application received by way of assignment. It be checked and registered. Arguments heard. Vide separate order of even date, the present bail application has been dismissed. File be consigned to record room after due compliance.

Pronounced in open Court:
Dated: 10.08.2020

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