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

CRM-M-26695 of 2015 (O&M)

Date of decision: August 30, 2016

Anuj Jain

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. A.S. Cheema, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. A.P.S. Deol, Senior Advocate with
Mr. Sushil Jain, Advocate
for respondent No.2.

A.B. CHAUDHARI, J (Oral)

CRM No.26745 of 2016

Heard.

Application is allowed and Annexures P-25 to P-28 are taken
on record.

CRM-M-26695 of 2015

Heard learned counsel for the rival parties at length
including the learned counsel for respondent No.2-complainant.

In FIR No.178 dated 30.03.2015, under Sections 506, 34 of
Indian Penal Code, 1860 (for short 'IPC') (Sections 109, 406 IPC and
Section 27 of Arms Act, 1959 (for short 'Arms Act') added later on),
registered at Police Station City Sonapat, the petitioner is seeking grant
of anticipatory bail.

This Court had made an order dated 27.08.2015 granting ad-interim anticipatory bail to the petitioner.

In support of the petition for anticipatory bail, Mr. R.S. Cheema, Senior Advocate with Mr. A.S. Cheema, Advocate for the petitioner, inviting my attention to the FIR, contended that the FIR that was lodged was only under Sections 506 read with Section 34 IPC. In that FIR, it was specifically mentioned that the complainant has invested money in partnership and he wanted his money back and therefore, lodged FIR about the threats to his life etc. He further contended, thereafter, the police registered FIR and made investigation. During investigation, the police added offences under Sections 406, 109 IPC and 25 of the Arms Act for no reasons when there was no such information to the police in the FIR. He then contended that dispute between the parties is purely of civil nature as there was money transactions during business. Even, according to the complainant, he had given money for investment in the routine business transactions and there is evidence to show that the payments were made. There is no single ingredient of Sections 406, 109 IPC or Arms Act qua the petitioner. The petitioner has been on interim bail from 27.08.2015 and has fully cooperated with the police machinery. The police has been acting like recovery agent for recovery of money. Apart from this, there is abuse of the process of law. He then prayed for confirmation of the ad-interim anticipatory bail granted to the petitioner.

Per contra, Mr. A.P.S. Deol, Senior Advocate with Mr. Sushil Jain, Advocate for respondent No.2 and learned State counsel

opposed the petition and submitted that during investigation, offences can be added and therefore, no fault can be found with the police.

Upon hearing the learned counsel for the rival parties at length and seeing the entire record, particularly the FIR, I find that the complainant himself of stated that he invested the money in partnership and that he did not get back the money. The reading of the FIR further shows only imparting threats and nothing more. However, police added Sections 406, 109 IPC and 25 of the Arms Act allegedly on the basis of statement under Section 161 Cr. P.C. In my opinion, the police have acted like recovery agent for the complainant. If the complainant had himself invested the money with full knowledge about business transaction with the petitioner with whom he had close relationship for number of years, he cannot recover his money by lodging FIR with the police station. At any rate, the FIR nowhere shows single ingredient of sections 406, 109 IPC and Section 25 of the Arms Act. There is no allegation against the petitioner about use of arms. In the result, I find that the order dated 27.08.2015 granting ad-interim anticipatory bail to the petitioner, deserves to be confirmed.

In that view of the matter, interim order dated 27.08.2015 granting ad-interim anticipatory bail to the petitioner, is made absolute.

Petition stands disposed of, accordingly.

(A.B. CHAUDHARI)
JUDGE

August 30, 2016

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No