

In the High Court of Punjab and Haryana at Chandigarh

CRM M-45025 of 2018
Reserved on: October 11, 2018

Date of Decision: October 16, 2018

Sunil Kumar

... *Petitioner*

Versus

State of Haryana

... *Respondent*

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Akshay Kumar Jindal, Advocate,
for the petitioner.

P.B. Bajanthri, J.

1. In the present petition, petitioner has sought for anticipatory bail under Section 438 Cr.P.C. in case FIR No. 591, dated 24.09.2018, under Sections 120-B, 406, 420 of IPC, registered at Police Station Qila, District Panipat.

2. Allegation against the petitioner is that he has cheated the complainant in the textile business in terms of money transactions. Detail of the transactions reads as under:-

“Krishna Textile, Proprietorship of Shubham Bajaj, 1. Sh. Durga Textile Mill Rs.21,80,089/- (Krishna Textile), 2. Goyal Yarns Rs.10,86,078/- (Krishna Textile), 3. Goyal Cottex Rs.4,74,370/- (Krishna Textile), 4. Om Balaji Textile Rs.9,93,106/- (Krishna Textile), total Rs. 47,33,643/-, Preet Textile, Proprietorship of Kopin, 1. Sh.Durga Textile Mill Rs.19,64,288/- (Preet Textile), 2. Goyal Yarns Rs.6,13,937/- (Preet Textile), 3. Goyal

Cottex Rs.9,64,805- (Preet Textile), 4. Om Balaji Textile Rs.3,54,890/- (Preet Textile), 5. Dharam Woolen Mill, Rs. 4,92,640/- (Preet Textile) total Rs. 43,90,560/-, Ambay Textile Proprietorship of Ankur Bajaj, 1. Om Balajit Textile, Rs. 8,72,318/- (Ambay Textile), total amount is Rs.99,96,521/-.”

Additional Sessions Judge, Panipat has rejected the petitioner's bail application on 03.10.2018.

3. Learned counsel for the petitioner submitted that complainant's counsel in identical matter i.e. CRM M-12528 of 2018 titled as “Sunil Bajaj and another vs. State of Haryana” appeared as an Advocate for the victim wherein on 02.04.2018 this Court has granted interim bail. On 22.05.2018 when the matter was listed in the case titled as “Sunil Bajaj and another vs. State of Haryana”, parties were directed to be present before the Mediation and Conciliation Centre of this Court on 31.05.2018 wherein complainant was also represented by his counsel through Mr. Rajesh Bansal. Thus, grievance of the complainant would be part of CRM M-12528 of 2018 in FIR No. 134 dated 08.03.2018, whereas in the present FIR No. 591 dated 24.09.2018 issue is identical. Thus, petitioner is entitled for anticipatory bail.

4. Heard learned counsel for the petitioner.

5. Perusal of transactions stated in the FIR No. 591 dated 24.09.2018 and in the FIR No. 134 dated 08.03.2018, it is evident that petitioner seems to be a habitual offender of cheating in respect of money transaction with his clients. Transaction runs into numbers. That apart the allegations are very serious relating to fraud in the business to the extent of giving certain assurances to his clients and not adhered into the terms and

conditions in the business transactions. As plea of the petitioner with regard to the appearance of complainant as victim in FIR No. 134 dated 08.03.2018 do not effect his right. He must appear in that matter only to bring into notice conduct of the petitioner as he cheated number of person. The Additional Sessions Judge elaborately considered the plea of the petitioner while rejecting bail application on 03.10.2018. Supreme Court in the case of **Anil Kumar Yadav vs. State (NCT of Delhi) and another**, reported in **(2018) 12 SCC 129** held that Court while granting bail should exercise its discretion in a judicious manner. Once discretion is exercised by trial Court to grant bail on consideration of relevant material, High Court would not normally interfere with such discretion, unless the same suffers from serious infirmities or perversity. Supreme Court in the case of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another**, reported in **2017 SCC OnLine SC 1189**, in para no. 17 held as under:-

“17. The same principle was followed in Central Bureau of Investigation v Maninder Singh, (2016) 1 SCC 389 by a bench of two learned Judges of this Court. In that case, the High Court had, in the exercise of its inherent power under Section 482 quashed proceedings under Sections 420, 467, 468 and 471 read with Section 120-B of the Penal Code. While allowing the appeal filed by the Central Bureau of Investigation Mr Justice Dipak Misra (as the learned Chief Justice then was) observed that the case involved allegations of forgery of documents to embezzle the funds of the bank. In such a situation, the fact that the dispute had been settled with the bank would not justify a recourse to the power under Section 482:

“...In economic offences Court must not only

keep in view that money has been paid to the bank which has been defrauded but also the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned is well planned and was committed with a deliberate design with an eye of personal profit regardless of consequence to the society at large. To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy. If the prosecution against the economic offenders are not allowed to continue, the entire community is aggrieved."

In the present case, petitioner has not pointed out any serious infirmity or perversity in respect of rejection of his bail application by Additional Sessions Judge vide order dated 03.10.2018. Huge amount are involved in the present case and no recovery is effected so far. So, granting of anticipatory bail would affect the recovery of amount from the petitioner. Thus, petitioner has not made out a case for anticipatory bail.

6. Accordingly, present petition stands dismissed.

October 16, 2018

vk d

**[P.B. Bajanthri]
Judge**

Whether reasoned / speaking : Yes

Whether reportable : No