

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

CRM-M-24253-2020

Date of decision: 24.11.2020

Ashwani Bansal

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Atul Bhatia, Advocate for the petitioner.
Mr. Apoorv Garg, D.A.G., Haryana.
Mr. Naresh Kumar Chhoker, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.374 dated 21.06.2019, registered at Police Station Samalkha, District Panipat, under Sections 406,420,468,471 and 506 IPC.

On 25.08.2020, a Coordinate Bench of this Court passed the following order:-

“Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail to the petitioner in respect of FIR No.374 dated 21.06.2019 under Sections 406, 420, 468, 471 and 506 IPC registered at Police Station Samalkha, District Panipat.

Learned counsel for the petitioner argues that the complainant had alleged identical allegations against the father of the petitioner namely Radhey Shyam, brother of the petitioner Aman Bansal and his mother Mukesh Lata along with him. The allegations against the petitioner & co-accused is that they are not executing the agreement to sell. Learned counsel for the petitioner further submits that the father of the petitioner was granted the benefit of anticipatory bail by this Court while deciding CRM-M-30376 of 2019 vide order dated 19.07.2019 and his brother was also granted the same benefit by this Court while deciding CRM-M-34167 of 2019 decided on 22.08.2019. Learned counsel for the petitioner further submits that though the allegations against all the accused are identical but the said benefit of anticipatory bail has been

declined to the petitioner by the learned Additional Sessions Judge, Panipat vide his order dated 10.08.2020.

Learned counsel for the petitioner further submits that once the allegations against the petitioner are identical with that of other co-accused, the petitioner is also entitled for the benefit of anticipatory bail as the petitioner is ready to join the investigation and cooperate with the same.

Notice of motion.

Mr. Sharad Aggarwal, learned Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State and Mr. Naresh Kumar Choker, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of the complainant.

Learned counsel for the complainant submits that the allegations against the petitioner are serious as he has taken money from the complainant and he alongwith other co-accused is not executing the agreement to sell.

Learned counsel for the respondent-State supports the said contention of learned counsel for the complainant.

Learned counsel for the respondent-State as well as learned counsel for the complainant concedes that the father of the petitioner, namely, Radhey Shyam and brother of the petitioner, namely, Aman Bansal, against whom similar allegations have been alleged in the FIR, have already been granted the benefit of anticipatory bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it is not disputed that the allegations against all the four accused, who belong to a same family, are identical and the father and brother of the petitioner have already been granted the benefit of anticipatory bail by this Court, the benefit of anticipatory bail can only be denied to the petitioner in case any differentiating fact is brought to the notice of this Court so as to deny the petitioner the benefit, which has already been extended to the co-accused.

In the present case, no differentiating fact has been pointed out by the learned State counsel or by the learned counsel for the complainant.

In the absence of any differentiating fact, all the co-accused against whom, the similar allegations are alleged, are entitled for the same relief. That being so, the petitioner, has made out a case for the grant of anticipatory bail as granted to co-accused by this Court, as recorded earlier.

The petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her

satisfaction subject to the following conditions:

i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.

Adjourned to 24.11.2020.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned counsel for the petitioner submits that pursuant to the order dated 25.08.2020 passed by a Coordinate Bench of this Court, the petitioner has joined the investigation.

Learned State counsel, on instructions from ASI Jatinder Kumar, submits that the petitioner has joined the investigation and he is not required for any further investigation.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 25.08.2020 passed by a Coordinate Bench of this Court granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

24.11.2020

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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No