

S.No.102

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

CRM-M-27099 of 2020 (O&M)

Date of Decision:10.09.2020

Sanjay Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Ashok Kumar Khubbar, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.48 dated 19.03.2020 registered under Sections 420, 406 IPC at Police Station Sadhaura, District Yamuna Nagar.

It is contended by counsel for the petitioner that earlier the petitioner was granted concession of anticipatory bail, subject to payment of Rs.3 lakhs to the complainant by way of demand draft, which would include an amount of Rs.2.5 lakhs which was acutally paid by the complainant to the petitioner and Rs.50,000/- as compensation on account of delay. However, at that time, the petitioner was not in a position to arrange for the requisite funds. Hence, the earlier bail application filed by the petitioner seeking anticipatory bail was dismissed for this reason only. Now, the petitioner has got a banker's cheque for the said amount of Rs.3 lakhs and he can hand over the same to either the complainant or to his counsel. Hence, it is prayed that the petitioner be protected against his arrest.

Notice of motion.

Mr. R.S. Jhand, Addl. AG, Haryana, accepts notice on behalf of the State. Mr. Sanchit Punia, Advocate has put in appearance on behalf of the complainant.

Learned State Counsel has not disputed the fact that earlier the order of granting anticipatory bail to the petitioner was passed by this Court, in this case only. However, it is submitted by counsel that since there are specific allegations against the petitioner, therefore, he does not deserve concession of anticipatory bail.

Learned counsel for the complainant has submitted that he has got instructions to submit that the complainant has no objection if the petitioner returns the money; with some reasonable compensation; and then he is granted concession of anticipatory bail. Accordingly, it is submitted that the draft, statedly prepared by the petitioner, be handed over to him for onward handing over the same to the complainant. In that situation, the complainant would not have any objection to grant anticipatory bail to the petitioner. Rather, if his money is returned to the complainant, then he is even ready to settle the entire dispute with the petitioner for the above-said amount of Rs.3 lakhs only.

In view of the above submissions, but without commenting upon merits of the case, the present petition is allowed, subject to the petitioner handing over the draft/ banker's cheque in the name of the complainant to the counsel for the complainant, within three days, for being handed over to the complainant for encashment. In case, the petitioner hands over the draft, as mentioned above, to the counsel for the

complainant, then the petitioner shall be released on bail by the Investigating officer of the case subject to his furnishing bail bonds/ surety bonds to the satisfaction of Arresting/ Investigating Officer. However, it is further directed that the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

However, it is further clarified that if the petitioner hands over the draft/Bankers' cheque to the counsel for the complainant, then the counsel for the complainant would hand over the said draft/Bankers' cheque to the complainant, who shall be entitled to encash the same. After receipt of the draft/Bankers' cheque, counsel for the complainant will issue a receipt of the same in favour of the petitioner on his letter-pad; duly signed by him. A production of said receipt by the petitioner before the Investigating Officer shall be taken as a proof of the petitioner having handed over draft/Bankers' cheque to the complainant, and accordingly, the Investigating Officer of the case shall release the petitioner on bail.

September 10, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No