

CRM-M-1043-2021

Date of decision: 15.09.2021

Rajiv Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

Coram: Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sahil Choudhary, Advocate for the petitioner.

Mr. Gurbir Dhillon, AAG, Haryana.

Mr. P.S. Hundal, Advocate for the complainant.

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**B.S. Walia, J. (oral)**

1. Payer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.33 dated 05.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura, District Yamunanagar.

2. On 11.01.2021, the following order was passed:-

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.33 dated 05.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura , District Yamunanagar.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner had taken loan from the Axis Bank against mortgage of his gold. The petitioner did not commit any fraud. The petitioner is also ready to repay the amounts of loan taken by him. Learned

Counsel for the petitioner, on instructions from the petitioner, has submitted that the petitioner undertakes to pay 50% of the loan amount due within one month and balance 50% within two months thereafter. The petitioner is ready to join the investigation and cooperate in the investigation of the case.

Notice of motion.

Pursuant to supply of advance copy, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State counsel seeks time to file reply.

Adjourned to 10.03.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. and also undertaking given by him through his Counsel today failing which he shall not be entitled to the protection of interim bail allowed to him.”

3. Thereafter, on 08.07.2021, Incharge, Special Investigation Team was directed to remain present before this Court while continuing the interim order. Thereafter, on 16.08.2021, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner has, while pointing out that the petitioner has already deposited 50% of the amount, reiterated his submissions and prayed for confirming the order granting interim anticipatory bail to the petitioner.

Learned State counsel seeks adjournment for filing additional status report with requisite details regarding documents executed by the petitioner at the time of taking loan, modus operandi and his involvement with other co-accused in commission of the crime.

Learned counsel for the complainant has submitted that the petitioner has not paid balance 50% of the amount in compliance of undertaking given by him at the time of passing of interim anticipatory bail order.

At this stage, learned counsel for the petitioner seeks time to have instructions from the petitioner regarding payment of the balance 50% amount.

On being asked regarding present status of investigation Mr. Ashish Chaudhary, DSP, Bilaspur has submitted that the challan has been prepared against remaining 13 accused persons who are on interim bail and warrants of arrest have been got issued against 4 persons.

In view of the facts and circumstances of the case particularly the fact that the FIR was registered in March, 2019 and the investigation is still pending, the SIT is directed to take steps for concluding the investigation expeditiously preferably within three months from the date of receipt of a copy of this order in accordance with law. Needless to observe that in the eventuality of any further unreasonable delay on the part of the Investigating Agency/ instrumentalities of respondent-State, complainant shall be at liberty to move this Court for transfer of investigation to some independent agency such as Central Bureau of Investigation.

On request, case is adjourned to 15.09.2021.

To be shown in the urgent list.

Additional status report be filed by the respondent-State in the Registry before that date.

Interim order to continue.”

4. Today, learned counsel for the petitioner contends that pursuant to the orders of this Court dated 11.01.2021, the petitioner joined investigation, fully cooperated with the police, got deposited the entire loan amount which was taken by him against mortgage of gold and was released on ad interim pre arrest bail and that in the circumstances his custodial interrogation is not required. Learned State counsel on instructions from SI Suresh Kumar, member, Special Investigation Team, confirms that pursuant to the aforementioned order, the petitioner has deposited with the Axis Bank entire amount taken against gold loan, has joined investigation, fully cooperated in the same and that in the circumstances he is no longer required for custodial interrogation.

5. In view of the statement of learned State Counsel, order dated 11.01.2021, passed by this Court, is made absolute. The petitioner shall abide with the conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

6. Petition stands *disposed of* in the aforementioned terms.

**(B.S. Walia)**  
**Judge**

15.09.2021  
'rajesh-jyoti'

Whether speaking/reasoned :Yes/No.  
Whether reportable :Yes/No.