

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

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CRM-M-18460-2021.

Date of Decision: 07.12.2021.

Narinder Kumar

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Keshav Pratap Singh, Advocate and
Mr. Vishal Singh, Advocate for petitioner.

Mr. Amit Aggarwal, Deputy Advocate General, Haryana.

Lalit Batra, J.(Oral)

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Narinder Kumar** in case FIR No.83 dated 22.02.2020 under Sections 120-B, 380, 427 and 457 IPC, registered at Police Station Saha, District Ambala.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that as per FIR version, allegedly during intervening night of 21/22.02.2020, some unknown persons committed trespass into the ATM of Central Bank of India, Saha, District Ambala and further committed theft of ATM machine containing currency of Rs.19,46,300/-. He further submits that petitioner was not named in the FIR, whereas his name surfaced in the array of accused on the basis of disclosure statement rendered by co-accused Sunny. He further

submits that disclosure statement rendered by co-accused Sunny and that too before police is not admissible and even otherwise no stolen amount came to the share of petitioner. He further submits that allegedly car owned by petitioner was used in the commission of alleged offence. He further submits that nothing incriminating is to be recovered at the instance of petitioner. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that during intervening night of 21/22.02.2020, petitioner alongwith co-accused namely Bittu Panchal, Himanshu Madaan, Aman Kathuria, Raman Thakur, Sunny, Ankit, Amit @ Kalia and Inderpal @ Pintu, committed trespass into the ATM of Central Bank of India, Saha, District Ambala and further committed theft of ATM machine containing currency of Rs.19,46,300/-. He further submits after arrest, co-accused Bittu Panchal got recovered Rs.4 Lakhs; co-accused Himanshu Madaan got recovered Rs.70,000/-; co-accused Aman Kathuria got recovered Rs.80,000/-; co-accused Raman Thakur got recovered Rs.62,000/-; co-accused Sunny got recovered Rs.65,000/-; co-accused Ankit got recovered Rs.2 Lakhs; co-accused Amit @ Kalia got recovered Rs.1,06,000/- and co-accused Inderpal @ Pintu got recovered Rs.12,000/- as well as iron cutter and grinding machine, from their respective residential houses, whereas co-accused Ankit had also got recovered Rs.4 Lakhs from

the residential house of petitioner. He further submits that all the co-accused also got recovered pieces of ATM machine from a room constructed behind the market near Bus Stand Uplana. He further submits that petitioner arranged the vehicle for loading the stolen ATM machine and, thus, his custodial interrogation is required to recover the said vehicle as well as the stolen amount which came to his share. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly during intervening night of 21/22.02.2020, petitioner alongwith co-accused namely Bittu Panchal, Himanshu Madaan, Aman Kathuria, Raman Thakur, Sunny, Ankit, Amit @ Kalia and Inderpal @ Pintu committed trespass into the ATM of Central Bank of India, Saha, District Ambala and further committed theft of ATM machine containing currency of Rs.19,46,300/-. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has

also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

07.12.2021

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No