

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-27831-2021

Date of decision : 02.11.2021

Harish Chander Juneja

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Rahul Bhargava, Advocate
for the petitioner.

Mr.N.K.Banka, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 438 Cr.P.C. for grant of pre-arrest bail / anticipatory bail to the petitioner in FIR no.79 dated 24.05.2021 registered under Section 420 IPC at Police Station C-Division, Amritsar.

On 19.07.2021, a co-ordinate Bench of this Court was pleased to pass the following order:-

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

The petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.79 dated 24.05.2021 registered under Section 420 of the Indian Penal Code, 1860 at Police Station C-Division, District Amritsar.

Learned Counsel for the petitioner has submitted that the complainant was in the business of earning

some commission amount by converting the amount of the people for income tax purposes and deposited and withdrew the amount in her account under her signatures. At that time the complainant was not aware of the fact that the same would attract income tax liability upon her and came to know about the same when demand notice was issued and penalty was imposed on her. There is a delay of 7 years in making of complaint as the period in dispute pertains to March, 2009 to April, 2009 and the complaint was filed first time on 08.12.2017. The petitioner retired from the bank after service of 40 years. Allegations against the petitioner that the petitioner deposited and withdrew the amount from the account of the complainant are false and concocted. The case is based on documentary evidence. The petitioner is ready to join the investigation and his custodial interrogation is not required in the case.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. AG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Learned State Counsel seeks time to file reply.

In view of the facts and circumstances of the case, presence of the complainant is considered to be necessary for just and proper decision of the petition. Therefore, complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Adjourned to 23.09.2021.

Notice to newly added respondent No.2 be issued for that date and notice be also given dasti, if so desired. 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 anticipatory 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. failing which he shall not be entitled to the protection of interim anticipatory bail allowed to him.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has joined investigation. It is also submitted that no liability has been fastened by the income tax authority on the petitioner.

On the other hand, learned State counsel has opposed the petition for bail, but however, submitted that the petitioner has joined the investigation.

Keeping in view the facts and circumstances, more so, the fact that there is delay of 7 years in making of complaint as the period pertains to year March, 2009 to April, 2009 and the complaint has been filed on 08.12.2017, and the petitioner has retired after 40 years of service and the income tax authorities have not initiated any proceeding against the petitioner, and the petitioner has joined the investigation, the petition for anticipatory bail is allowed and the interim order dated 19.07.2021 is made absolute. However, the petitioner shall abide by the conditions as provided under Section 438(2) of Cr.P.C. and shall join the investigation as and when called upon to do so by the Arresting Officer / Investigating Officer.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed

for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

November 02, 2021
Davinder Kumar

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