

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

Sr.No.102

**CRM-M No.29145 of 2021
Date of Decision: 28th July, 2021**

Aakash Chaturbhuj Chhabaria

...Petitioner

Versus

State of Haryana

...Respondent

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr.Vinod Ghai, Senior Advocate with
Mr. Dharminder Singh Randhawa, Advocate
for the petitioner.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner has made second attempt to seek the relief of anticipatory bail in the criminal case arising out of the FIR bearing No.0179 dated 22.10.2020 registered at Police Station Cyber Crime, District Gurugram, under Sections 406, 420, 467, 468, 471, 120-B IPC and Section 66D of the Information Technology (Amendment) Act 2008 wherein the offence under Section 408 IPC is stated to have been added later-on.

Before advertng to the factual-matrix culminating in the registration of the subject FIR, it is expedient to mention here that the first petition bearing CRM-M No.43388 of 2020, as preferred by the petitioner for seeking the same relief as prayed for in this petition, had been dismissed by this Court vide the order dated 07.01.2021, i.e Annexure

P-20, after hearing learned counsel for both parties at length.

Bereft of unnecessary details, the allegations, as levelled against the petitioner in the above-said FIR, are that he, in collusion with his co-accused and on the basis of the forged e-mails, received a sum of Rs.4,40,44,530/- as the rebate amount under 'M69T' Programme of the complainant-Company 'HPE' despite the fact that he was not eligible to the same.

Mr. S.S.Pannu, learned Deputy Advocate General, Haryana, has joined the proceedings in pursuance of the copy of this petition having been sent to the respondent-State in advance.

Mr. R.S.Rai, Senior Advocate, assisted by Mr. Abhinav Sood, Advocate, has also joined the proceedings on behalf of the complainant, in this case.

I have heard learned Senior counsel for the petitioner Mr. Vinod Ghai as well as learned State counsel along-with learned Senior counsel for the complainant, in the present petition and have also perused the file thoroughly.

Learned Senior counsel for the petitioner contends that after the dismissal of the afore-said first petition as moved by the petitioner for seeking the relief of anticipatory bail, the Challan has been presented against some of his co-accused wherein another accused named Reena has been exonerated and moreover, even the IP details of the e-mail ID of the co-accused of the petitioner have not yet been traced out so as to show the alleged forgery of the e-mails to

pay the said amount to the petitioner and in view of these subsequently arisen circumstances, this petition is maintainable and the petitioner is also entitled to the relief of anticipatory bail as sought for in this petition.

However, this contention is not tenable because even if the factum of the above-referred exoneration of the co-accused of the petitioner named Reena is taken/presumed to be correct, even then, the same does not suffice at all to mitigate the gravity of the allegations as levelled against him (petitioner) in this case as the roles attributed to them in the alleged commission of the crime are not on the same footing. Further, it has also been categorically mentioned in the final report presented under Section 173(2) Cr.P.C against the co-accused of the petitioner named Nitin Sharma and Manish Jain that the facility of the official e-mail ID, as provided to accused Nitin Sharma by HPE, is having its server in Taiwan and due to the outbreak of Pandemic COVID-19, the IP details of the same could not be obtained. It being so, the afore-discussed grounds can, by no stretch of imagination, be taken to be the material ones so as to have any bearing on the adjudication of the present petition moved by the petitioner for seeking the relief of anticipatory bail after the dismissal of his first petition preferred for the same purpose. Rather, to add to it, the filing of this petition, in itself, speaks volumes of the fact that the petitioner is evading to join in the investigation even after more than 6 ½ months of the dismissal of his above-said first petition and

09 months of the registration of the subject FIR against him.

Moreover, it has also been held by the three Judges' Bench of the Apex Court in **G.R.Ananda Babu vs. State of Tamil Nadu & Anr. Criminal Appeal No.84 of 2021 Decided on 28.01.2021** that “specious reason of change in circumstances cannot be invoked for allowing successive anticipatory bail applications once it is rejected by a speaking order and that too by the same Judge.” These observations are fully applicable to the present case and in the light thereof, it is explicit that the petitioner is not entitled to seek the relief of anticipatory bail, by way of the present petition, after the dismissal of his first petition vide the order Annexure P-20.

As a sequel to the foregoing discussion, it follows that the petition in hand deserves dismissal. Resultantly, the same stands dismissed accordingly.

(MEENAKSHI I. MEHTA)
JUDGE

28.07.2021.
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Whether speaking/reasoned	Yes
Whether Reportable	Yes