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

CRM-M No.35721 of 2021
Date of Decision: 26-10-2021.

Avtar Singh
...Petitioner

Versus

State of Haryana
...Respondent

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

Present: Mr. S.S.Momi, Advocate,
for the petitioner.

Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

* * * * *

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.75 dated 03.04.2021 registered at Police Station Guhla, District Kaithal, under Sections 406 and 420 IPC (wherein the offences under Sections 467, 468 & 471 IPC are stated to have been added later on), the petitioner has preferred this petition for seeking the relief of anticipatory bail.

2. Bereft of unnecessary details, the allegations, as levelled by complainant-Didar Singh in the subject FIR, are that the petitioner, who had been working as Postman in his village, had fraudulently/deceitfully obtained an amount of Rs.20,30,000/- from him on the pretext of investing the same in a private Company which would pay higher rate of interest and double the amount, so invested, after 15 months and he (petitioner) also gave him a fake/forged receipt, as purported to be issued by Future Choice

Company and on inquiry, he (complainant) came to know that no such private Company existed and the petitioner refused to refund the said amount to him.

3. Status-report, by way of the affidavit of the Deputy Superintendent of Police, Kaithal, has already been filed.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the record thoroughly.

5. Learned counsel for the petitioner has contended that the above-said amount had allegedly been paid by the complainant to the petitioner on 14.11.2014 whereas the FIR has been got registered on 03.04.2021, i.e after about 6½ years and thus, there is a long delay on the part of the complainant in reporting the matter to the police. He has, further, contended that the petitioner had bonafidely got the above-said amount of the complainant invested in the said private Company and he himself had invested his own money in the same Company and he has also been defrauded by the said Company and in these circumstances, the petitioner deserves the relief as prayed for in this petition. To buttress his contentions, he has placed reliance upon ***Siddharth vs. State of Uttar Pradesh & Anr. Criminal Appeal No.838 of 2021 (Arising out of SLP(Crl.) No.5442 of 2021) Decided on 16.08.2021; Sumedh Singh Saini vs. State of Punjab & Another, Criminal Appeal No.827 of 2020 (Arising from SLP (Criminal) No.4336 of 2020) Decided on 03.12.2020*** and ***Jonathan Nitin Brady vs. State of West Bengal, Criminal Appeal No.1444 of 2008 (Arising out of SLP(Crl.)***

No.6864 of 2007) Decided on 10.09.2008.

6. Per-contra, learned State counsel has argued that after paying the above-said amount to the petitioner, the complainant waited for 15 months to get/receive double the amount so paid by him and thereafter, he has repeatedly been asking the petitioner to refund the said amount and when the petitioner dilly-dallied the matter, he (complainant) enquired about the said Company and came to know that the same did not exist and then, he got the FIR lodged and moreover, the petitioner had handed over the forged receipt to the complainant and it being so, the instant petition be dismissed.

7. As regards the delay in lodging the said FIR, it is worth-while to mention here that the complainant has, categorically, alleged that he is illiterate and after 15 months of paying the said amount to the petitioner, when he asked him (petitioner) to pay him double the amount, the petitioner kept on assuring him to pay the same as and when he would receive it from the said Company and later-on, he (complainant) noticed that the above-said amount and the date of its maturity had not been mentioned in the said receipt as given by the petitioner to him and on enquiry, it transpired that the said Company did not exist. The truthfulness and plausibility of the said version of the complainant/prosecution can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be considered and determined at this stage.

8. Further, the factum of the petitioner himself having allegedly been defrauded by the said Company, does not suffice at all, at this stage, to

extend the concession of anticipatory bail to him because still the fact remains that he had obtained the said amount from the complainant while assuring him for its gainful investment.

9. To add to it, in Para No.3 of the status-report, it has specifically been mentioned that during the investigation, it was found that no Company in the name of 'Future Choice' was registered with the Assistant Registrar, Cooperative Societies, Patiala and in Para No.4 therein, it has also been categorically stated that the custodial interrogation of the petitioner is required for further investigation qua the factum of the deposit of the said amount by him with any Company and also regarding the persons who were shown to be employed with the above-said fake Company as well as for the recovery of the said amount from him.

10. The observations as made by the Apex Court ***Siddharth (supra)***, ***Sumedh Singh Saini (supra)*** and ***Jonathan Nitin Brady (supra)*** are of no avail to the petitioner in this case because the facts and circumstances of the afore-cited cases are distinguishable from those of the present one. In ***Siddharth (supra)***, the petitioner had already joined in the investigation and the charge-sheet was also stated to be ready to be filed and the arrest memo was issued as the trial Court took the view that unless the person was taken into custody, the charge-sheet would not be taken on the record in view of Section 170 Cr.P.C whereas in the present case, the investigation is still at the initial stage and the petitioner has yet to be joined in the same.

Then, in ***Sumedh Singh Saini (supra),*** the FIR had been lodged by the brother of the deceased after a period of almost 29 years from the date of the occurrence and 09 years from the date of the decision of the Hon'ble Supreme Court in the case involving the same occurrence whereas it is not so in the instant matter.

Similarly in ***Jonathan Nitin Brady (supra)*** also, the FIR was registered under Section 153A IPC and it was observed that there was no satisfactory reason for the custodial interrogation of the accused for the said offence whereas in the present case, as discussed earlier, the custodial interrogation of the petitioner is stated to be required for eliciting the truth regarding the deposit of the amount by him with the said fake Company, the detail of the persons employed therein and also for the recovery of the said amount from him.

11. Keeping in view all the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of anticipatory bail.

Resultantly, the petition in hand stands dismissed accordingly.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

(MEENAKSHI I. MEHTA)

26th October, 2021. **JUDGE**

seema

Whether speaking/reasoned?	*Yes*
Whether Reportable?	*No*