

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CRM-M-38019-2021(O&M)

Date of decision : 09.12.2021

Som Parkash

... Petitioner

Versus

State of Haryana

... Respondent

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Ashit Malik, Advocate  
for the petitioner.

Mr.Manish Dadwal, AAG, Haryana.

Mr.Navneet Singh Chhokar, Advocate  
for the complainant.

**VIKAS BAHL, J.(ORAL)**

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.398 dated 22.07.2021 registered under Sections 406, 420 IPC at Police Station Kaithal City, District Kaithal.

On 14.09.2021, this Court had passed the following order:-

*“Prayer in the present petition is to grant anticipatory bail to the petitioner in FIR No.398 dated 22.07.2021 registered under Sections 406, 420 of the Indian Penal Code, 1860 at Police Station Kaithal City, District Kaithal.*

*Learned counsel for the petitioner inter alia contends that on 14.09.2019, first complaint (Annexure P-1) was filed by the petitioner against Prem Singh and S. Das in which it was alleged that in fact the petitioner*

*had also been duped by the said persons. In the said proceedings, the statement of present complainant-Ruldu Ram was also recorded on 10.08.2019 (Annexure P-3) in which even the present complainant had made the allegations against the said Prem Singh and S. Das and had stated that he alongwith the petitioner and other persons had collectively paid a sum of Rs.27,00,000/- to Prem Singh. It is further contended that as per report dated 14.09.2019 (Annexure P-4), the said Prem Singh and S. Das were not available and thus, the present FIR has been registered by the complainant against the petitioner and his family members and another person, by challenging his version. It is submitted that as regards the cheque, the same pertains to another transaction which is apparent from the compromise dated 25.07.2019 (Annexure P-7). It is also submitted that son of the petitioner namely Shubham had also approached this Court by way of filing petition bearing CRM-M-34274-2021 and this Court was pleased to grant interim protection to son of the petitioner vide order dated 26.08.2021.*

*Notice of motion.*

*On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, accepts notice on behalf of State of Haryana and seeks time to get instructions.*

*Adjourned to 28.10.2021.*

*In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”*

Learned counsel for the petitioner has submitted that the

petitioner has joined investigation.

Learned State counsel on instructions from SI Shamsheer Singh has submitted that the petitioner has joined investigation on 15.09.2021 and is not required for further investigation.

Learned counsel for the complainant has submitted that in the present case, the fact that the petitioner has committed an offence is clear from the compromise dated 25.07.2019 wherein he has issued two cheques in favour of the complainant. On a pointed query put by this Court as to whether any proceedings under Section 138 of the Negotiable Instruments Act (in short 'N.I. Act) have been instituted by the complainant, learned counsel for the complainant has submitted that he was not aware as to whether a complaint under Section 138 N.I. Act has been filed or not.

Learned counsel for the petitioner in order to rebut the above said arguments of learned counsel for the complainant, has submitted that the said compromise is with respect to another transaction and perusal of the FIR would show that no reference has been made to the issuance of the said cheques mentioned in the compromise.

Keeping in view the above said facts and circumstances, and also the facts noticed in the order dated 14.09.2021 and also the fact that the petitioner had made a complaint first, on 05.07.2019, against Prem Singh and S.Das and it is only subsequently that the present FIR had been registered against the petitioner and also the fact that the factum with respect to the issuance of the said cheques had not been recorded in the FIR and the fact that the petitioner has joined the investigation and as per stand of the State, he is not required for further investigation, the present petition for anticipatory bail is allowed and the interim order dated 14.09.2021 is

made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Since the main case has been decided, pending miscellaneous applications also stand disposed of.

(VIKAS BAHL)  
JUDGE

**December 09, 2021**  
*Davinder Kumar*

|                             |        |
|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |