

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-52563 of 2019 (O&M)
Date of decision 29.10.2021

Rakesh Babbar

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gautam Dutt, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.
Mr. Gunjan Mehta, Advocate for the complainant.

AVNEESH JHINGAN, J (Oral):

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 686 dated 17.9.2018, under Sections 406, 420 and 120-B IPC, registered at Police Station DLF, District Gurugram.

On 9.12.2019, this Court passed the following order:

“Prayer in this petition filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of anticipatory bail to the petitioner in case FIR No.686 dated 17.09.2018 registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860 at Police Station DLF, Sector 29, Gurugram.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the FIR registered on the complaint of Moti Lal alleging cheating and criminal misappropriation by the petitioner. The Complainant has projected a false and concocted story in the FIR and tried to give a criminal colour to a purely civil dispute. The matter is pending before National Company Law Tribunal for insolvency resolution process. On investigation, the police has

*presented charge-sheet under Section 173(2) of the Cr.P.C. without arresting the petitioner in view of the observations in **Arnesh Kumar Vs. State of Bihar : 2014(3) RCR (Criminal) 527.** Learned Chief Judicial Magistrate has ordered issuance of non-bailable warrant of arrest against the petitioner. The petitioner is ready to appear before the trial Court and abide by the terms and conditions of the bail order. In view of the apprehension of arrest on non-bailable warrant issued against him, the petitioner may be ordered to be released on anticipatory bail.*

Notice of motion.

On the asking of the Court, Mr. Arjun Singh Yadav, Asstt. A.G., Haryana accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the Learned State Counsel, who seeks time to complete his instructions.

At this stage, Mr. Kunal Dawar, Advocate has appeared on behalf of the complainant and filed his power of attorney which is taken on record.

Learned Counsel for the complainant has argued that the petitioner cheated the complainant and criminally misappropriated the amount invested by siphoning off the same. The extra-ordinary relief of anticipatory bail cannot be granted in respect of socio-economic offences particularly when investigation is still pending. However, learned Counsel for the complainant seeks time to file reply to the petition.

Adjourned to 13.01.2020.

In the meanwhile, the petitioner is directed to appear before the Chief Judicial Magistrate, Gurugram and on such appearance, the petitioner shall be released on interim bail on furnishing of bail bonds by the petitioner to his satisfaction.

The order of granting interim bail is passed without prejudice to passing of further orders on the petition

and the questions as to maintainability of the petition and also as to whether the petitioner deserves anticipatory bail in view of the socio-economic nature of the offences involved and what will be the duration of the anticipatory bail, if granted to the petitioner, are kept open.”

CRM-6132 of 2020 is filed for placing on record the reply on behalf of the complainant.

In order to give a fair opportunity to the complainant, the reply filed is considered.

Learned counsel for the State, on instructions from SI-Manoj submits that the petitioner has joined the investigation, the investigation is complete, challan stands presented and no custodial interrogation of the petitioners is required.

Learned counsel for the complainant vehemently opposes the prayer for confirmation of interim bail. He submits that the petitioner is involved in other cases which are registered in Rajasthan.

In view of the statement made by learned counsel for the State and considering that involvement of petitioner in other cases in itself will not be a ground to deprive personal liberty of the petitioner.

As no custodial interrogation is required, the interim order dated 9.12.20219 is made absolute.

As the main case is disposed of, the prayers in the pending applications are rendered infructuous.

Needless to say that the complainant would be at liberty to avail remedies in accordance with law for redressal of the surviving grievance.

The petition stands disposed of.

[AVNEESH JHINGAN]
JUDGE

29th October, 2021
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1. Whether speaking/ reasoned

:

Yes /No
2. Whether reportable

:

Yes /No