

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-12475-2022

Date of Decision:-26.04.2022

Amit Chaudhary.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Karan Bhardwaj, Advocate for the Petitioner.

Mr. Naveen Sheoran, DAG Haryana.

Mr. Anshul Gupta, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Petitioner seeks the grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.25 dated 05.02.2022 for offences punishable under Sections 420, 467, 468, 471, 506 IPC registered at Police Station Kalka, District Panchkula.

The brief facts of the case are that the complainant Shamit Kumar son of Sh. Kushdev Raj got registered the present FIR with the allegations that his friend Naib Chaudhary got him to meet accused Amit Chaudhary who introduced himself to the complainant as an OSD to the Hon'ble Union Home Minister and stated that he was on good terms with the number of central ministers of the government of India and on account of that fact had got permanent jobs for many unemployed persons and could

also get allotted petrol pumps. The petitioner further informed the complainant that the HP Petrol Pump at HMT Pinjore which was not working could be got allotted to him. The complainant expressed his desire for the same for which the accused/petitioner demanded Rs.70 lacs. As per the said demand the petitioner deposited Rs.20 lacs in the bank account no.81812010012685 of Syndicate Bank on 08.01.2020 through RTGS. The accused-petitioner informed the complainant that he had spoken to the Union Minister for Petroleum and Natural Gas and that a petrol pump at Kalka would be allotted to him for which he got the complainant to sign various documents. On a further demand the petitioner deposited a sum of Rs.49,17,000/- by RTGS and Rs.8 lacs in cash. The complainant repeatedly asked the accused about the allotment of the petrol pump and the accused made various excuses for the delay in the said allotment. Finally in June 2020 a Whatsapp communication was sent to the complainant on which it was written that the possession of the petrol pump would be given to the complainant on 10.10.2020. However, in October 2020 the complainant was told by the petitioner that the petrol pump allotment had been cancelled. When the complainant enquired at his own level it was found that no such application had been made on his behalf and no such allotment had therefore been done in his name. When the complainant approached the petitioner for refund of the money deposited, the petitioner issued cheques for different amounts, all of which were dishonoured leading to the filing of the complaints under Section 138 of the Negotiable Instruments Act, 1881. Thus, the complainant prayed that necessary legal action be taken against the petitioner.

Pursuant to the registration of the FIR, the petitioner sought the

concession of anticipatory bail which came to be dismissed by the court of Additional Sessions Judge, Panchkula vide the impugned order dated 28.02.2022 leading to the filing of the present petition.

The counsel for the petitioner firstly contends that a bizarre and illogical story has been propounded by the complainant which was difficult to believe. It was difficult to believe that the complainant would trust a total stranger with an amount of Rs.57,17,000/- for the allotment of petrol pump. He further submitted that this version in the FIR that the petitioner was masquerading as an OSD to the Hon'ble Union Home Minister itself is baseless. He argued that the entire process of allotment was conducted online which goes through a lengthy process of tendering and the petitioner could not have mislead the complainant to get him allotted a petrol pump. He also contended that since proceedings under Section 138 of the Negotiable Instruments Act, 1881 were already pending between the parties the complainant could not be allowed to pursue two remedies.

The Counsel for the complainant on the other hand has argued that the petitioner has committed a serious offence by using the name of senior government functionaries to extort money from the complainant and therefore, does not deserve the concession of anticipatory bail.

The Counsel for the State contended that the custodial interrogation of the petitioner was required to unearth the entire conspiracy and effect recoveries.

I have heard counsel for the parties at length.

As per the investigation conducted the complainant appeared before the investigating officer and produced his mobile phone containing

Whatsapp chat with the accused/petitioner, fake and fraud notices and NOCs One Pendrive containing Whatsapp chat and the version with regard to fake notices and NOC was produced before the investigating officer and a transcript of the same was also made available. The statement of the account of AXIS Bank was also produced according to which complainant had transferred Rs.49,17,000/- in the account of the petitioner. Thus, it is apparent that a financial transaction took place between the complainant and the petitioner for which absolutely no explanation whatsoever has been offered by the petitioner except to state that the version of the FIR cannot be believed. On the contrary the record placed before the investigating agency by the complainant and the investigation conducted so far clearly goes to show that the version in the FIR appears to be *prima facie* true and infact the custodial interrogation of the petitioner is required to take the investigation to a logical conclusion.

It would also be relevant to mention here that merely because proceedings under Section 138 of the Negotiable Instruments Act, 1881 have been initiated against the petitioner does not preclude the complainant from availing his other remedies in accordance with law by way of registration of the present FIR for having been cheated by the petitioner. On the contrary the fact that the petitioner sought to return the money of the complainant itself shows that the version of the complainant cannot be disbelieved atleast at this stage.

Last but not the least, the petitioner has blatantly misused the name of senior functionaries of the government and as such does not deserve the concession of anticipatory bail moreso when the entire conspiracy to defraud the complainant can only be unearthed once the

petitioner is subjected to police custody.

In view of the above, finding no merit in the present petition for anticipatory bail, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 26, 2022
Vinay

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