

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

214

CRM-M-23265-2022 (O&M)

Date of Decision: 06.09.2022

Om Parkash

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. B.R.Rana, Advocate, for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Dalbir Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.62 dated 21.03.2022 under Sections 380, 407 IPC and Sections 467, 468, 471, 411, 465, 120-B IPC (added later on), registered at Police Station Focal Point, Ludhiana, District Ludhiana.
2. The FIR in question was lodged at the instance of Arshpreet Singh Sahwani, wherein it has been alleged that the complainant runs a firm under the name & style of 'Sehaj Solutions Engineering' where tractor parts were being manufactured. It has been alleged that the complainant had employed Babloo Tripathi for the purpose of transporting the goods. On 17.03.2022, 1172 Kgs. of export pins worth Rs.1,75,000/- were loaded in Mahindra Bolero, which was to be driven by Babloo Tripathi and were to be delivered to M/s Om Industries. However, the said articles were never delivered and later it transpired that he had sold the said articles to the petitioner, who is a scrap dealer.

3. At the time of issuance of notice of motion on 26.05.2022, the following order was passed:

“Prayer in this petition is for grant of anticipatory bail in FIR No.62 dated 21.03.2022 under Sections 380, 407 IPC and Sections 467, 468, 471, 411, 465, 120-B IPC (added later on), registered at Police Station Focal Point, Ludhiana, District Ludhiana.

Learned counsel for the petitioner submits that to show his bonafide, the petitioner is ready to deposit an amount of Rs.1.00 lac with the trial Court/Illaqa Magistrate, without prejudice to his right of defence and subject to final outcome of the case.

Notice of motion for 06.09.2022.

In the meantime, the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

1. He shall make himself available for interrogation by a police officer as and when required;
2. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- 3 He shall not leave India without previous permission of the Court.

This will, however, be subject to the condition that without prejudice to his right of defence and subject to final outcome of the trial, the petitioner will deposit the amount of Rs.1.00 lac with the trial Court/Illaqa Magistrate.”

4. Learned State counsel upon instructions has informed that although the petitioner has joined investigation, but the entire consignment of articles has not been recovered and only a small fraction of the same has been got

recovered. It has further been informed that the petitioner otherwise is not involved in any other case.

5. This Court has considered the rival submissions.
6. Having regard to the nature of allegations and the fact that the petitioner has joined investigation and otherwise has a clean record and has also deposited an amount of Rs.1 lakh, as directed vide order dated 26.05.2022, it is not a case which warrants custodial interrogation. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 26.05.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
7. The trial Court/Illaq Magistrate before which the petitioner is stated to have deposited an amount of Rs.1 lakh is directed to get the said amount invested in some FDR in some nationalized bank with the specific direction to the Bank Manager concerned not to entertain any request for encashment except an order of the Court. In case, the petitioner is found innocent and is acquitted and such acquittal attains finality, he shall be entitled to the proceeds of the FDR. However, in case he is found guilty and his conviction attains finality, it is the complainant who shall be entitled to the proceeds of such FDR.

06.09.2022

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**