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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35005-2021
Date of Decision: 26.05.2022

Sanam Balkamal Dhir

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Hakam Singh, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. P.S. Poonia, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No. 321 dated 09.07.2021, under Sections 420 and 406 IPC, registered at Police Station City, Sirsa.

The learned counsel for the petitioner has submitted that this Court vide order dated 01.09.2021 while issuing notice of motion had granted interim protection/bail to the petitioner and in pursuance of the same, the petitioner has joined and he has fully cooperated with the investigation process and has therefore prayed that the interim order dated 01.09.2021 may be made absolute. He further submitted that it is a case where the allegations against the petitioner were that he had borrowed an

amount of Rs. 20,00,000/- from the complainant in the year 2015 and thereafter, a promissory note executed by him. Thereafter before the expiry of the period of three years, there was an acknowledgement of debt and the date was extended to 03.07.2020. The complainant did not file any suit for recovery on the basis of the aforesaid promissory note and as per the allegations in the FIR, the petitioner issued a cheque of Rs. 25,00,000/- drawn on HDFC Bank, Navi Mumbai Branch. The said cheque was presented by the complainant which was dishonoured on the ground that the signatures have differed. He further submitted that be that as it may the entire dispute was pure and simple case of civil dispute, if any, and the present FIR was an abuse of the process of law. He further submitted that the complaint filed by the complainant under Section 138 of the Negotiable Instruments Act, 1881 is still pending in which summoning order has been issued.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted on instructions from ASI Mahavir Singh that the petitioner in pursuance of the orders passed by this Court on 01.09.2021 has joined investigation and he has cooperated with the investigation process and he has specific instructions to submit that the petitioner is not required for custodial interrogation.

Mr. P.S. Punia, learned counsel for the complainant has submitted that the petitioner has committed a fraud upon the complainant by borrowing money and thereafter by not returning the same. He further submitted that out of the total borrowed money, the petitioner had paid back to the complainant an amount of Rs. 4,50,000/- and for the remaining

were different from his signatures.

I have heard the learned counsel for the parties.

As per the specific stand taken by the learned Deputy Advocate General, Haryana the petitioner has already joined investigation and has cooperated with the investigation process. The argument raised by the learned counsel for the complainant that the petitioner had taken an amount of Rs. 20,00,000/- and has not returned back except Rs. 4,50,000/- and he is not entitled for the grant of anticipatory bail is devoid of any merit. The subject matter of the present case appears to be a civil dispute between the parties and a promissory note was issued by the petitioner as per FIR but no civil suit was filed as per the learned counsel for the parties. Complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed by the complainant and the same is pending. It is settled law that police is not supposed to be recovery agents and therefore, the argument raised by the learned counsel for the complainant is not sustainable.

Consequently, the present petition is allowed. The order dated 01.09.2021 is hereby made absolute.

26.05.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No