

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

**Criminal Miscellaneous No.M-39924 of 2021**

**Date of Decision: February 22nd, 2022**

Varun Kumar

..... PETITIONER(S)

*VERSUS*

State of Haryana

..... RESPONDENT(S)

. . .

**CORAM: HON'BLE MR. JUSTICE SANT PARKASH**

. . .

**PRESENT:** - Mr. Munish Gupta, Advocate, for the petitioner.

Mr. Amreek Singh Narwal, Deputy Advocate General, Haryana, assisted by Mr. S.K. Garg Narwana, Senior Advocate, with Mr. Ram Bilas Gupta, Advocate, for complainant.

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**Sant Parkash, J**

The aforesaid presence has been recorded through video conferencing since the proceedings were conducted in virtual court.

The present petition has been preferred by the petitioner under Section 438 Cr.P.C. for grant of pre-arrest bail in case FIR No.0176 dated 18.03.2021 (Annexure P-1) registered under Sections 408 (Sections 420, 467, 468, 471 IPC added via zimni dated 12.04.2021) at Police Station, Ballabhgarh City, District Faridabad.

The present FIR has been registered on the basis of complaint filed by Ajay Kumar Goyal, alleging that petitioner – Varun

Kumar had been working in his company, namely, K.K. Concrete Product, Shamshan Ghat, Tigaon Road, Ballabgarh, as Engineer for the last 3-1/2 years. He alleged that a car bearing registration No.DL-8CAN-3890, ₹ 2.5 lac in cash, Government M.B. Book Agreement of Level Ballabgarh and a file of Government Tender were in possession of the petitioner which he took away.

Learned counsel for the petitioner submitted that petitioner, his wife and daughter are suffering from HIV Positive and undergoing treatment at PGI-ART Centre, Chandigarh. Petitioner was working as Engineer in the company of complainant at a monthly salary of ₹ 22,000/-. His services were terminated on 09.03.2021 without paying salary w.e.f. September 2020. Petitioner had also filed a petition under Payment of wages Act which is pending adjudication. Despite various notices issued by the Assistant Labour Commissioner, complainant did not put in appearance. The car, alleged to have been taken away by petitioner, was purchased by him in an agreement. The trial court dismissed his bail application on false premise that he did not join the investigation. Rather, petitioner has always been ready and willing to join investigation.

Per contra, learned counsel for the State, assisted by learned senior counsel for respondent No.2 – complainant has submitted that petitioner had taken excess salary. Learned counsel submitted that original copy of Aadhar card is required to be procured which has allegedly been forged by the petitioner on the basis of which, the car was got registered by him in his name. Further, specimen signature of the owner of car has been sent to FSL Madhuban for comparison/examination, report regarding which is awaited.

Vide order dated 27.09.2021 passed by this Court, the petitioner was granted interim bail in the following terms:-

“In the present case, it is not disputed that the car in question, the ownership of which is being claimed by the petitioner as well as complainant, is already with the police. It is also not disputed that the details of the alleged forged Aadhar Card have already taken by the police from the authorities concerned, on the basis of which, relevant Sections of the IPC were added to the FIR on 12.04.2021.

This Court is not to decide the guilt or the innocence of the petitioner in the present petition. The only question, which needs to be decided by this Court is whether, the purpose of investigation will be achieved in case, the petitioner is directed to join the investigation and cooperate or custodial interrogation is necessary so as to elicit the truth behind the allegations.

Keeping in view the facts and circumstances of the present case, this Court is of the view that purpose of investigation will be achieved in case, the petitioner is directed to join the investigation and cooperate with the same.

Petitioner is directed to join the investigation forthwith.

In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That 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 the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 14.10.2021.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

In response thereto, reply has been filed by respondent – State submitting that petitioner did not cooperate with the investigation.

I have heard learned counsel for the parties and gone through the record.

Admittedly, the petitioner was granted the concession of ad-interim bail by this Court vide order dated 27.09.2021. It is also not disputed that the car in question, ownership of which is being claimed by the petitioner and complainant, has already been recovered by police.

The only reason for opposing anticipatory bail by the prosecution and complainant is that recovery of original aadhar card, photocopy of which was used for registration of the car is yet to be recovered.

Be that as it may, there is no dispute with regard to the fact that specimen signature of the owner had already been sent to FSL for comparison and report of the same is still awaited.

Keeping in view the totality of the facts & circumstances and without commenting on the merits of the case, the petition is allowed and order dated 27.09.2021 granting ad interim bail to the petitioner is hereby made absolute subject to abiding by the conditions envisaged under Section 438(2) Cr.P.C.

It is made clear that in case any incriminating material comes out against the petitioner during investigation or deciphered from the FSL report and he doesn't cooperate with the investigation, the respondent –

State will be at liberty to file appropriate application seeking custody of the petitioner.

**(Sant Parkash)**  
**Judge**

**February 22<sup>nd</sup>, 2022**  
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Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No