

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-36457-2022 (O&M)

Date of Decision : 10.11.2022

Balwant Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ashish, Advocate for
Mr. Vikram Singh, Advocate for the petitioner

Mr. Rajiv Sidhu, DAG, Haryana
assisted by SI Rampal Singh.

Mr. Ravinder Bangar, Advocate for the complainant.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No. 95, dated 10.6.2022, Police Station Jathlana, District Yamuna Nagar, under Sections 406, 420, 506, 120-B of Indian Penal Code and Section 10 of the Immigration Act.
2. Reply filed by respondent-State by way of affidavit of Shri Rajat Gulia, DSP, Radaru, Yamunanagar is taken on record.
3. At the time of issuance of notice of motion on 22.8.2022, the following order was passed :

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.95, dated 10.6.2022, Police Station Jathlana, District Yamuna Nagar, under Sections 406, 420, 506, 120-B of Indian Penal Code and Section 10 of Immigration Act, 1983.

The FIR in question was lodged at the instance of complainant Major Singh, wherein it has been alleged that the accused i.e. Balwant Singh, Usha and Jatin alongwith other accused had defrauded the complainant of an amount of Rs.10.90 lakhs on the pretext of sending complainant's cousin namely Vijay and his wife Nisha abroad.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that, in any case, in order to prove his *bonafides* he is willing to deposit an amount of Rs.3 lakhs before the Trial Court.

Notice of motion for 10.11.2022.

At this stage, Mr. Ravinder Bangar, Advocate has put in appearance on behalf of the complainant and has filed *Vakalatnama*, which is taken on record.

Both the learned counsel are *ad idem* that the matter could be amicably resolved amongst the parties.

In view of the aforesaid submission, the parties are directed to appear before Mediation and Conciliation Center of this Court on 14.9.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

The aforesaid directions shall, however, be subject to the condition that the petitioner, as per his offer, shall deposit an amount of Rs.3 lakhs within 8 weeks before the Trial Court. Upon deposit of such amount, the Trial Court/Illaq Magistrate shall get the same invested in some FDR with some Nationalized Bank with a specific direction to Manager of the bank concerned not to entertain any request for encashment of the same except under orders of the Court. Upon the petitioner being declared innocent or being acquitted and such acquittal attains finality, the petitioner shall be entitled to proceeds of the said FDR. However, in case the petitioner is found guilty and is convicted and such conviction attains finality, the complainant shall be entitled to proceeds of the FDR in question. ”

4. Learned State counsel has informed that pursuant to interim directions issued by this Court the petitioner has since joined investigation but have not fully cooperated inasmuch as he has not got the passports of the complainants recovered.

5. This Court has considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case and also the nature of allegations and the fact that the petitioner has joined investigation, this Court is of the opinion that it is not a case where custodial interrogation would be warranted. Though, the learned State counsel has objected to the confirmation of bail on the ground that the petitioner has not got the passports of the complainants/victims recovered but the non-recovery of incriminating article at the instance of accused cannot be made a ground for denial of bail in every case inasmuch as forcing recovery of the same may virtually amount to forcing admission of guilt of the accused.
7. At the time of issuance of notice of motion, the petitioner had offered to deposit an amount of Rs. 3 lacs to prove his *bona fide*, which already stands deposited.
8. In these circumstances, this Court is of the opinion that it is a fit case for grant of anticipatory bail. The petition is accepted and the interim directions issued by this Court vide order dated 22.8.2022 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.

10.11.2022

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No