

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(213)

CRM-M-40587-2022

Date of decision: - 22.11.2022

Rajinder Sharma

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Nishant Indal, Advocate, for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Madan Gupta, Advocate, for the complainant.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.774 dated 23.12.2021, under Sections 406, 420 and 506 IPC, at Police Station Krishna Gate Thanesar, Kurukshetra.

On 06.09.2022, this Court was pleased to pass the following order:-

“Inter alia contends that the petitioner was elected as President of Market Association numerous times and maintains a good reputation and as far as the present complainant is concerned, he has not taken any money from the complainant and there is no document on record to even remotely show that any amount has been received by the petitioner from the complainant. It is further submitted that there is no Whatsapp chat or message showing acknowledgment of any payment and in the present case, a civil dispute has been sought to be given a criminal colour.

Notice of motion for 26.09.2022.

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

It would be open to the learned counsel for the complainant to place on record the relevant documents to show that the petitioner is not entitled to concession of anticipatory bail.

(VIKAS BAHL)
JUDGE

September 06, 2022"

Thereafter, on 28.10.2022, this Court was pleased to pass the following order: -

"Learned State Counsel, on instructions from ASI Shamsher, has submitted that although, the petitioner has joined the investigation but is still required for further investigation.

The petitioner is again directed to join the investigation before the concerned Investigating Officer on 11.11.2022 at 11:00 AM.

Adjourned to 22.11.2022.

Interim order to continue.

(VIKAS BAHL)
JUDGE

28.10.2022"

Learned counsel for the petitioner has submitted that in pursuance of the above-said orders, the petitioner has joined the investigation.

Learned State counsel as well as learned counsel for the complainant have submitted that the petitioner has joined the investigation, but the money has not been recovered from the petitioner.

Learned counsel appearing on behalf of the complainant has submitted that although there is no written document and whatsapp chat/message showing that the money has been paid, but there is audio

recordings between the petitioner and the complainant, which would prima facie indicate that the money had been taken by the petitioner.

This Court has heard learned counsel for the parties and has perused the paper-book.

It is the case of the petitioner that he has not taken any money from the complainant and there is no document on record to show any amount has been received by him and there is no whatsapp chat/message showing acknowledgment of the said payment. The petitioner has joined the investigation. The admissibility and the relevance of the audio recordings, which are there as per the counsel for the complainant, would be considered during the course of the trial.

Keeping in view the abovesaid facts and circumstances more so, the facts which have been noticed in abovesaid order dated 06.09.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 06.09.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

November 22, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No