

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

CRM-M-46233-2021

Date of decision: 24.03.2022

Hoshiyar Singh

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ravinder Phogat, Advocate,
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.382 dated 22.09.2021, registered under Section 408 IPC, at Police Station City Jhajjar, District Jhajjar.

Vide order dated 03.11.2021 passed by this Court, the petitioner had been granted *ad interim* pre-arrest bail and directed to join investigation. A relevant extract of the order dated 03.11.2021 would read as under:

“Learned counsel for the petitioner submits that the petitioner had joined the office of Fusion Micro Finance, Jhajjar, as an Assistant Branch Manager, barely 15 days prior to the registration of the FIR by the Branch Manager of the said company, with the allegations that that on 22.09.2021, the petitioner took an amount of Rs. 3,83,000/- from the office of the said company for its deposit in the Axis Bank; that when contacted on phone, he did not pick up the phone and that later on his phone was found switched off. It is further submitted that as a

matter of fact, the petitioner had never been entrusted with the said money for its deposit in the Axis Bank; that being the Assistant Branch Manager of the company, it was not the duty of the petitioner to deposit the money in any bank and that his duties were only to collect the loan amount. It is further submitted that the FIR had been registered by the complainant in order to harass and humiliate the petitioner as the former used to pick up quarrel with the petitioner on petty issues. It is yet further submitted that there is no proof of any kind of the alleged money having ever been handed over to the petitioner for its deposit in the Bank.

Notice of motion.

On asking of this Court, Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana, accepts notice on behalf of respondent-State. He seeks some time to file status report.

Adjourned to 07.02.2022.

Meanwhile, the petitioner is directed to join the investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438(2) of the Code of Criminal Procedure.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.”

Learned counsel for the petitioner submits that pursuant to the order dated 03.11.2021 passed by this Court, the petitioner has joined investigation.

Learned State counsel, on instructions from ASI Jitender, submits that although the petitioner has joined investigation, yet the money is to be recovered from him.

However, this Court cannot allow the Investigating Agency to become a recovery agent.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 03.11.2021 granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438 (2) Cr.P.C.

24.03.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No