

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

**CRM-M-52515-2022**

**Date of decision : 15.11.2022**

Ajay Sharma

....Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Chanderhas Yadav, Advocate  
for the petitioner.

**PANKAJ JAIN, J. (ORAL)**

Apprehending his arrest in FIR No.332 dated 25<sup>th</sup> of July, 2022, registered for offences punishable under Sections 406, 420, 120B, 467, 468, 471 of the Indian Penal Code, 1860 (for short, 'the IPC') at Police Station Model Town, District Panipat, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. Ld. Counsel for the petitioner submits that the petitioner has been implicated merely for being brother of accused Vijay Sharma against whom the substantive allegations have been levelled. He further relies upon order dated 11<sup>th</sup> of November, 2022 whereby co-accused namely Yogender Singh @ Sonu has been granted interim protection in CRM-M No.51784 of 2022. Counsel further submits that since there is no allegation *qua* demand raised by the petitioner and, thus, it is highly debatable as to whether offence punishable under Sections 406, 420, 467, 468, 471 IPC is

made out against the petitioner and further it is claimed that the allegation against the petitioner of having handed-over security cheques is also not believable as the said security cheques have been drawn on the account of the firm which was run by the father of the petitioner and the co-accused and the said firm got closed in the year 2008.

3. Mr. Naveen K. Jaglan, Advocate appearing for the complainant has drawn attention of this Court to the specific allegations against the petitioner in the FIR which read as under :-

“(38) On 01.06.2022 Vijay Sharma and his brother Ajay Sharma came to plot at Bhijol and took away Rs.66 lakh in cash and as a security two cheques were given, issued by Ajay Sharma Khalbhandar, the guarantee amount of same was Rs.3 Crore and Rs.4 Crore. Photocopies of the same are annexed, my and his mobile number location in the bank be checked.”

4. Mr. Sumit Jain, Addl. Advocate General, Haryana appearing on advance notice for the respondent-State submits that it is a case wherein number of innocent people have been duped of their hard earned money and the petitioner while collecting money was accompanying his brother and, thus, so far as ingredients of conspiracy are concerned the same stand satisfied and it does not lie in the mouth of the petitioner at this stage to claim that no offence against the petitioner is made out.

5. I have heard counsel for the parties and have gone through the records of the case.

6. As per the allegations levelled in the FIR, the petitioner is alleged to have been actively participated while collecting heavy amounts

from the complainants. Apart from that he also issued security cheques which as per the complainants were drawn on the firm which stand closed way back in 2008. The argument raised by counsel for the petitioner is thus misconceived. The plea raised by counsel thus inculcates the petitioner rather shows that he was active participant who opted to kept mum while security cheques were being issued to the complainants knowing well that the firm in question stood closed way back in 2008. It is a case involving multi crores and in view of the allegations levelled against the petitioner having participated actively in the collection of the money, it is not a case wherein pre-arrest bail can be extended to the petitioner.

7. As per settled law petitioner is required to make out a case for invoking jurisdiction under Section 438 Cr.P.C. In **Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565**, Apex Court has held that :-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail...”

(emphasis supplied)

8. Likewise while reiterating the law laid down in **Gurbaksh Singh Sibbia's case (supra)** Apex Court in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** held that :-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

9. As per settled law (**in C.B.I vs. Anil Sharma, 1997(7) 187**) there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.

10. The nature and the seriousness of the allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

11. In view of the aforesaid circumstances, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner. Consequently, the same is dismissed.

12. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of this case.

**November 15, 2022**

**Dpr**

**(PANKAJ JAIN)  
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No