

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-57673-2022(O&M)
Date of decision : 12.12.2022

Akabar Khan @ Dada Thakur

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Azad Khan, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.0081 dated 08.03.2022 registered under Sections 395, 379, 506 IPC and Sections 25/ 54/ 59 of the Arms Act at Police Station Ferozepur Jhirka, Nuh.

The brief facts of the present case are that the FIR in the present case was registered on the statement of Shyam Sundar against the present petitioner and the other persons, and the present petitioner was shown as accused no.1. The said FIR was registered on the allegation that the complainant was running his clinic and a deal was made with respect to 7 bigha land in village Rigarh, Tehsil Ferozepur Jhirka with the present petitioner for an amount of Rs.2,70,00,000/- and it was decided that 10% of the total amount, which came out to be Rs.27,00,000/-, was to be paid and on 08.03.2022 the complainant had transferred an amount of Rs.20,000/- as payment from his account to the account of the present petitioner bearing

complainant, that thereafter on 08.03.2022, Rs.26,80,000/- was being taken in a bag by the complainant in his car for payment and he, along with his colleague Dr. Veer, was travelling in the said car and when they reached near Rigarh, the petitioner along with three other persons, whom the complainant could identify if they came in front of him, came and the petitioner took the bag of money from the complainant and then another companion of the petitioner took out a country made pistol and after snatching the bag and pointing the pistol at the complainant, they went away. Although the complainant followed the petitioner and the other persons, but they managed to run away.

The said FIR was registered on 08.03.2022 and the petitioner was specifically named in the same, and the anticipatory bail application filed by the petitioner was dismissed by the Additional Sessions Judge, Nuh, vide order dated 29.08.2022 and while dismissing the said anticipatory bail application it was observed by the Additional Sessions Judge, Nuh that the petitioner was the main accused. The petitioner has approached this Court for grant of anticipatory bail after a delay of more than 9 months from the registration of the FIR and more than 3 months from the passing of the order dated 29.08.2022.

Learned counsel for the petitioner has submitted that the co-accused of the petitioner Rakesh and Lal Chand have been granted regular bail by the Additional Sessions Judge, Nuh, vide orders Annexure P-4 and P-5 and that the petitioner is ready to join the investigation and thus, the petitioner deserves the concession of anticipatory bail. It is further submitted that the petitioner till date has not been declared as a proclaimed offender and the dispute involved in the present case is primarily a civil

dispute.

This Court has heard learned counsel for the petitioner and has perused the paper book and is of the opinion that the petitioner does not deserve the concession of the anticipatory bail for the following reasons:-

- i) As per the allegations levelled in the FIR, the petitioner is the main accused and he, along with other persons, as per the case of the complainant, is stated to have looted the complainant of an amount of Rs.26,80,000/- on the strength of a country made pistol.
- ii) The FIR was registered on 08.03.2022 and the petitioner was specifically named in the same and even the anticipatory bail application filed by the petitioner was dismissed on 29.08.2022 by the Additional Sessions Judge, Nuh, in which it was recorded that the petitioner is the main accused and his involvement is clear from the fact that an amount of Rs.20,000/- had been transferred into the online account of the petitioner and thus, the claim of the petitioner that he had no concern with the crime, stands falsified. The petitioner has been absconding for the last more than 9 months from the date of the registration of the FIR and a period of more than 3 months has elapsed even after the anticipatory bail application was dismissed by the Additional Sessions Judge, Nuh, on 29.08.2022.
- iii) Reliance sought to be placed by the learned counsel for the petitioner upon the order passed in the

case of co-accused Rakesh son of Kundan Lal vide which he has been granted the concession of regular bail (Annexure P-4) does not in any way further the case of the petitioner, rather the same further weakens the case of the present petitioner. It would be relevant to note that said Rakesh, who is not the main accused, has been granted regular bail after undergoing a period of 7 months of custody and thus, the same cannot be equated to a case for grant of anticipatory bail. A perusal of the paragraph 5 (at page 26 of the paper book) of the said order would show that in the arguments raised by the counsel for Rakesh (petitioner therein), he has levelled allegations against the present petitioner to the effect that the present petitioner is the main accused and has further highlighted the examination-in-chief of the complainant (page 27 of the paper book) as per which the said complainant had stated that the present petitioner had fled away from the spot after taking the bag of money from the complainant. A further perusal of the said order would show that it was observed by the Court therein (at page 29) that the present petitioner was the main accused.

iv) In the present petition, there is no explanation with respect to the amount of Rs.20,000/- having been transferred into the online account of the petitioner.

Keeping in view the abovesaid facts and circumstances, the

present petition is dismissed.

Nothing stated above shall be construed as an 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 petition.

Pending miscellaneous application stands disposed of in view of the abovesaid order.

December 12, 2022

Davinder Kumar

Whether speaking / reasoned

Whether reportable

(VIKAS BAHL)

JUDGE

Yes/No

Yes/No