

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

CRM-M-2753-2023 (O&M)

Date of decision : 19.01.2023

Krishan Kumar

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amit Kumar Goyal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for grant of anticipatory bail in case FIR No.379 dated 18.06.2021, under Sections 420, 467, 468, 471, 477-A of IPC, registered at Police Station City, District Sonipat.

As per the facts of the case, a letter No.154/PS/TC, Transport Commissioner, Haryana, Chandigarh was received in the police station regarding suspected vehicles re-registration fraud along with investigation report No.1972/R/ASP/G dated 10.06.2021. The sum and substance of the allegations in the report pertained to fraud involving re-registration of the vehicles with manipulation of chassis number at the time of entry of data in Vahan portal. On the basis of the same, enquiries were initiated and thereafter, FIR No.14 dated 21.01.2021, Police Station Sector-17, HUDA and FIR No.28 dated 01.02.2021, Police Station Bilaspur, District Yamunanagar were registered and the Transport Department has initiated an exercise to identify cases of suspected fraudulent re-registration of vehicles by similar modus operandi. The

request was made to take legal action in the same. Enquiries were made and involvement of number of accused surfaced in the scam. In pursuance to the same, during investigation, involvement of registration Clerk Anil Kumar, Krishan Kumar and other unknown persons came to the surface. FIR was registered.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that no offence as alleged is made out against the present petitioner. He further submits that as per the allegations in the FIR, irregularities alleged were made by the government officials, however, the petitioner is an auto broker. He purchased vehicles in auction. Thus, he has no complicity in the offence as alleged. He further submits that there is no allegation of forgery of any registration certificate by the petitioner. He further submits that no recovery is to be effected from the petitioner and thus, he deserves to be granted anticipatory bail.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the enquiry was initiated in the complaint received regarding the fraud committed in re-registration of the vehicles and manipulation of the chassis number at the entry of the data in Vahan portal. The *prima facie* allegations against the petitioner found to be that he along with the co-accused used manipulated chassis number of the vehicles and registered them afresh instead of getting the same re-registered. By adopting this modus operandi, massive loss to the State Exchequer had been alleged to have been committed. From the record, it is apparent that the petitioner is involved in five other cases of the similar nature.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

As per the law settled by the Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would

generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. 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. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

The Hon'ble Supreme Court in State Vs. Anil Sharma, (1997)

7SCC 187, held as under:-

6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

While appreciating the overall facts and circumstances of the case on the anvil of the law settled, this Court finds no merits in the present petition and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

19.01.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No