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

CRM-M-4670-2023 (O&M)
Date of Decision: 29.05.2023

VINOD KUMAR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sidhant Bhonsle, Advocate
for the petitioner.

Mr. M.S. Tiwana, A.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

CRM-21602-2023

This is an application for placing on record the photocopy of the stamp vending license (Annexure P-3) and lost information report (Annexure P-4).

For the reasons mentioned in the application, the same is allowed. Annexures P-3 and P-4, are taken on record subject to all just exceptions.

CRM-M-4670-2023

Petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 150 dated 02.06.2022, under Sections 406 and 420 of Indian Penal Code (in short "IPC"), registered at Police Station Division No. 5, Police Commissionerate, District Ludhiana (Annexure P-1).

2. Upon issuance of notice in this case, reply by way of an affidavit

dated 28.02.2023 of Ms. Jasroop Kaur Batth, IPS ACP, Civil Lines, District Police Commissionerate, Ludhiana, on behalf of respondent-State of Punjab, has been filed, which is already on record.

3. Briefly, the afore-stated FIR was registered after an inquiry of complaint moved by complainant Ravi Shankar Dhawan to the Commissioner of Police, Ludhiana against Vinod Kumar (petitioner) wherein he has submitted that he has been indulged into procuring stamp papers for his client (Desk Nine Pvt. Ltd. Bangalore) from different states. He contacted stamp vendor Vinod Kumar for the purchase of stamp papers. Three consignments of stamp papers worth Rs. 13,99,400/- were purchased by him and payment for the same was made into SBI current account provided by stamp vendor Vinod Kumar. Vinod Kumar started sending consignments but in first consignment, which got delivered to his clients in Bangalore on 05.08.2021, it was found that there were 3-4 packets in one big package and each package had only one blank stamp paper at the front and at the end and between them, there were just blank papers. He has requested to check other two consignments which are on the way to find out his fraud. After inquiry and taking the opinion of DA (Legal), the instant case FIR under Sections 406 and 420 IPC has been registered against petitioner (Vinod Kumar).

4. Apprehending his arrest in this case, the petitioner approached the Court of Additional Sessions Judge, Ludhiana seeking grant of pre-arrest bail by filing an application; however, the same was declined by the learned Additional Sessions Judge, Ludhiana, vide order dated 17.01.2023. Accordingly, the petitioner has filed this petition under Section 438 Cr.P.C. seeking anticipatory bail.

5. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. It

is submitted that the petitioner has no concern with the alleged crime and the allegations are totally false and concocted. It is further submitted that no offence under Sections 406 and 420 IPC is made out against the petitioner. It is next submitted that infact the petitioner had discharged his liability towards the complainant by providing the requisite stamp papers by delivering three consignments of stamp papers and if it is believed that the petitioner has delivered blank stamp papers instead of stamp papers, then the petitioner can be said to have committed breach of agreement for which the complainant can seek redressal in competent court / forum to recover damages. It is stated that the petitioner is ready to join the investigation and to comply with other conditions as may be imposed by this Court or by the trial Court. Accordingly, prayer for grant of anticipatory bail has been made.

6. Per contra, learned State counsel has opposed the prayer for grant of anticipatory bail to the petitioner on account of seriousness of the offence. It is submitted that the petitioner is specifically named in the FIR. Learned State counsel reiterated the averments made in para 4 to 6 of the Status Report filed on behalf of state, which read as under:-

“4. That statement of the complainant was recorded during the preliminary investigation on 10.08.2021 and thereupon notices under Section 41-A of the Cr.P.C. were served upon the petitioner, but despite of receiving of the said notices, the petitioner did not appear before the Investigating Officer. Thereupon, on 26.08.2021, the petitioner came present before the investigating officer and submitted an order passed by the Ld. Addl. Sessions Judge, Ludhiana wherein the state/investigating agency was directed by the Ld. Addl. Sessions Judge, Ludhiana, to give a notice of 2 days prior to the petitioner in case the investigating agency contemplated to apprehend the petitioner. Thereafter the statement of the petitioner was

recorded wherein he admitted the factum of receiving the amount of Rs.13,99,000/- from the complainant, in return of which the petitioner was to supply stamp papers to the complainant. It has further been stated by the petitioner that on account of his inability to procure Stamp papers, he had withdrawn all the amount and had given the same to one Sanjay, and the aforesaid Sanjay thereafter procured the “Stamp Papers” and supplied the same to the complainant.

5. *That it is humbly submitted, the aforesaid investigating official vide a detailed report recommended registration of a FIR under Sections 406 and 420 of the IPC against the present petitioner. The aforesaid report was approved by the senior police officials and thereupon the present case i.e. FIR No.150 dated 02.06.2022 has been registered under Sections 406 and 420 of the IPC at P.S. Division No.5, District Police Commissionerate, Ludhiana.*

6. *That it is apposite to mention herewith that upon registration of the present FIR, three notices dated 05.01.2023, 31.01.2023 and 20.02.2023 under Section 41(2) Cr.P.C have been served by the investigating agency upon the petitioner, and despite the service of the aforesaid notices the petitioner has not joined investigation in the present case.”*

It is further submitted that the petitioner does not have clean antecedents as he is involved in another case FIR No. 03 dated 12.05.2017 under Sections 420, 255, 256, 257, 258, 259, 467, 468, 471 IPC and Sections 7, 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station Vigilance Bureau, Ferozepur Range, Ferozepur. It is next submitted that the custodial interrogation of the petitioner is required for complete investigation of this case. Accordingly, prayer for dismissal of the petition has been made.

7. I have heard learned counsel for the parties and also gone through the paper book as well as the status report filed on behalf of the State

of Punjab.

8. In this case, petitioner has been specifically named in the FIR and specific allegations have been levelled against him that he had supplied consignment of stamp papers which contained 3-4 packets in one big package and each package had only one blank stamp paper at the front and at the end and between them, there were just blank papers. The petitioner has raised a plea that he had discharged his liability towards the complainant by providing the requisite stamp papers by delivering three consignments of stamp papers and even if it is believed that the petitioner has delivered blank stamp papers instead of stamp papers, then the petitioner can be said to have committed breach of agreement for which the complainant can seek redressal in competent Court/Forum to recover damages, however this plea deserves to be rejected on the face of it. The Courts are required to do substantial justice and not to let offenders go scot-free accepting such like pleas. The petitioner cannot be allowed to succeed in his such designs by grant of discretionary equitable relief of pre-arrest bail to him.

9. Further, as per reply filed by State, the petitioner had taken a stand that he had withdrawn the amount and given to one Sanjay and it is the said Sanjay who procured and supplied the “Stamp Papers”. In my considered view, the aforestated stand of petitioner *prima facie* shows his complicity in the case. Moreover, the petitioner is stated to be involved in another case FIR No. 03 dated 12.05.2017 and has also not responded to the notices under Section 41(2) Cr.P.C., served upon him by the Investigating agency.

10. Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine.

11. In *Adri Dharan Das v. State of W.B.*, 2005(4) SCC 303, the

Hon'ble Apex court held that ordinarily the courts will not interfere in the investigation of a crime or with arrest of an accused in a cognisable offence. It was held that arrest was a part of process of investigation which enables the unraveling of the various facets crime including the motive, preparation and its commission. Arrest also leads to information leading to discovery of material facts.

12. In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail.

13. Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

14. Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard. Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No. 150 dated 02.06.2022 under Section 406, 420 of IPC, registered at Police Station Division No. 5, Police Commissionerate, District Ludhiana; is dismissed.

15. 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.

16. All pending application/s, if any, shall also stand closed.

May 29th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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