

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

209

CRM-M-9541-2023 (O&M)  
Date of decision: 13.07.2023

Raghav Narang

...Petitioner

**Versus**

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present : Mr. Manu Loona, Advocate for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

Mr. Rajesh Narang, Advocate for the complainant

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**AMAN CHAUDHARY. J.**

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.02 dated 04.01.2023, registered under Section 420 IPC, at Police Station City Fazilka, District Fazilka.

2. The facts as reflected in the FIR registered on the statement of the complainant-Manpreet Singh are that he had been in great distress after getting duped of an amount of around Rs. 8-9 lac from a known person of the same city. Since the accused-petitioner had some political links, his complaint was suppressed but after multiple applications to the higher police officials, an inquiry was conducted by Superintendent of Police (Head-quarters), Fazilka and vide his report no. 142-167-PCR/SP (H) dated 22.10.2021, he had concluded that numerous transactions, amounting to a total of Rs. 17 lac, took place between

complainant-Manpreet Singh and petitioner. It was also reported that both the parties indulged in the business of Apple Mobile Phones and Apple watches, and the petitioner claimed to have delivered merchandise against the above-mentioned amount, but could not bring forward any such proof as no bills were given to him. On the basis of these allegations, the present FIR was registered against accused-petitioner on 04.01.2023.

3. Learned counsel contends that there was a delay in lodging of the FIR and the dispute pertains to supply of articles, which is of civil nature. He submits that the complainant alongwith his friends approached the accused in order to purchase Apples iphones and watches, which shows no dishonest intention on the petitioner's part. Moreover, no other friend has alleged any fraud at the hands of the petitioner. He has been falsely implicated in the case under political pressure, only for the purpose of extracting money from him. The petitioner is ready and willing to join the investigation and will cooperate with the investigating agency.

4. *Per contra*, learned State counsel assisted by the learned counsel for the complainant contends that the investigation qua the petitioner still remains to be carried out. There are specific allegations against him of having defrauded the complainant and thus committing serious offences of cheating and criminal breach of trust. An amount of Rs.17 lakhs of the complainant and others has been duped by the petitioner, which is yet to be recovered, for which his custodial interrogation is required. He is also likely to tamper with evidence and influence the witnesses. To eliminate the possibility of the petitioner fleeing from justice, the State counsel prays for the dismissal of the petition.

5. Heard and perused the file.
6. Hon'ble The Supreme Court in the case of **P. Chidambaram vs. Directorate of Enforcement**, (2019) 9 SCC 24, has observed that, "Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy."
7. In the present case, the complainant-Manpreet Singh, is stated to have been defrauded by the petitioner for an amount of Rs.9 lac, on the pretext of offering Apple iPhones and watches. Though, as per the investigation conducted by the police, the petitioner had as a matter of fact allured and promised other persons of the same and the amount involved of such transactions summed up to Rs. 17 lac, regarding which, he failed to furnish any receipts proving the delivery. He refused to refund amount or deliver the articles but also discouraged from pursuing any legal action, by purportedly leveraging his political affiliation.

Additionally, the petitioner's father allegedly issued a threat to the complainant, stating that his son would take his own life if the FIR was not withdrawn. During the investigation, the petitioner was subjected to intimidation through various means, including repeated phone calls.

8. Hon'ble The Supreme Court in **CBI vs. Santosh Karnani**, (2023) SCC Online SC 427, **Sadhna Chaudhary vs. State of Rajasthan**, (2022) SCC OnLine SC 869, **Dr. Naresh Kumar Mangla vs. Smt. Anita Agarwal and Ors.**, 2020 SCC Online SC 1089, while expounding the law on anticipatory bail relied on **Siddharam Satlingappa Mhetre vs. State of Maharashtra**, (2011) 1 SCC 694, which after due deliberation on the parameters evolved by the Constitutional Bench in **Gurbaksh Singh Sibbia vs. State of Punjab**, (1980) 2 SCC 565 held thus:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused 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;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no

prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

9. It is manifestly clear from the above that anticipatory bail is not a right that may be granted in every other case. The Court has to take into consideration all the facts and circumstances and after its utmost satisfaction, grant it only in exceptional circumstances, where all the factors and parameters are met and there is no possibility of him interfering in the path of justice.

10. Considering the judgments referred to hereinabove and the facts of the case at hand, particularly, the petitioner is alleged to have defrauded the complainant; giving serious threats; apprehension of him influencing and threatening the witnesses or tampering with the evidence, or fleeing from justice cannot be ruled out and needs to be warded off at this stage; the custodial interrogation of the petitioner is required for thorough and effective investigation of the crime committed, to discover the modus operandi, thus this Court is not inclined to grant the concession of anticipatory bail to the petitioner.

11. In view of the forgoing discussion, the present petition being devoid of merits is hereby dismissed.

12. The observations made hereinabove are meant only for the purpose of deciding the present petition and in no manner are to be construed as an

expression of opinion on the merits of the case.

(AMAN CHAUDHARY)  
JUDGE

July 13, 2023  
M.Kamra

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