

CRM-M-12311-2023
Date of decision : 14.03.2023

V/S

State of Haryana Respondent

Present: Ms. Mehak Sawhney, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.606 dated 11.11.2022 registered under Section 406 of the Indian Penal Code, 1860 at Police Station City Fatehabad.

The above-said FIR was registered on a complaint made by complainant-Nanak Chand alleging that on 07.11.2022 after loading the paddy of farmers, the same was sent from Rania to Guhla Cheeka. Since there was due amount of paddy of farmers, thus, on 08.11.2022 on the asking of the complainant the entire amount of Rs.50,00,000/- was handed over to the petitioner but after 6:00 p.m. on 08.11.2022, phone number of the driver was found to be switched off. Thereafter, he contacted Chiranji Lal, owner of the vehicle, who after checking location of vehicle through G.P.S. disclosed the location of the vehicle near Fatehabad-Ratia Chungi Bypass. When he along with Chiranji Lal went there they found that the driver of the vehicle fled away along with

the money. They tried to search the driver at their own level but they failed to find him out.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of false and baseless allegations. The FIR was registered after undue and unexplained delay of 03 days. The incident took place on 08.11.2022 whereas the FIR was registered on 11.11.2022. On perusal of the FIR, no offence whatsoever is made out against the petitioner. The petitioner was an employee of a third party i.e. Transporter-Chiranji Lal and it is not believable that such a huge amount of Rs.50,00,000/- in cash would be handed over to the petitioner and no receipt in writing would be obtained from him. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Joginder Pal Ratra, Senior D.A.G., Punjab, who is present in the Court, has accepted notice on behalf of the respondent-State.

At this stage, Mr. S.D. Bishnoi, Advocate has put in appearance on behalf of the complainant and filed his memo of appearance which is taken on record.

Learned State counsel assisted by learned counsel for the complainant has vehemently opposed the present petition and submits that the petitioner has been evading his arrest since long and several

raids were conducted to arrest the petitioner but he could not be arrested. The present petition has been filed for grant of anticipatory bail under Section 406 of the IPC, however, Section 407 of the IPC has also been added in the present FIR. For thorough investigation of the case and recovery of amount of Rs.50,00,000/- custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per the prosecution, the petitioner has received a huge amount of Rs.50,00,000/- which was sale price of paddy of poor farmers but he did not handed over the said amount to the complainant.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of amount, custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 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 ensconded 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.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

14.03.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No