

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

CRM-M-14347-2023
Date of Decision: 21.03.2023

RAJESH KUMAR @ RAJESH KUMAR SINGLA @ BOBBY SINGLA
AND ANOTHER

...Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sushil Kumar Verma, Advocate
for the petitioners.

Mr. Amrik Narwal, D.A.G., Haryana.

Mr. J.S. Gill, Advocate
for the complainant.

HARSH BUNGER, J. (ORAL)

Petitioners have filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.222 dated 06.08.2021, registered under Sections 406 and 420 of the Indian Penal Code, 1860, at Police Station Kalanwali, District Sirsa.

2. Succinctly, the above-said case FIR has been registered on the statement of one Som Nath Goyal son of Shri Puran Chand, regarding embezzlement of payment received by firm Rulia Ram Rajesh Kumar and Shalu Singla, partner of Shri Shyam Gawar Gum Mill, Dabwali Road

Mandi Kalawali. It is stated in the complaint that in the year 2020-21, the complainant had made a total payment of Rs.8,00,000/- through cheque to Rajesh Kumar Singla alias Bobby of firm Rulia Ram Rajesh Kumar, and Rs.2,00,000/- was paid by the wife of the complainant namely, Dayavati to Rajesh Kumar Singla alias Bobby of the firm Rulia Ram Rajesh Kumar, Mandi Kalawali and in this manner, total amount of Rs.10,00,000/- was paid and another cheque of Rs.10,00,000/- was given by Dayawati and one cheque of Rs.5,00,000/- was given by Somnath Goyal (complainant) to Shalu Singla wife of Rajesh Kumar Singla @ Bobby Singla. It is stated that the total amount of the four cheques was Rs.25,00,000/- and when the said amount was demanded back, the accused persons have fled away to some unknown place from Kalawali Mandi and had misappropriated their amount. It is alleged that the accused persons have also switched off their mobile phones i.e. Mobile Nos.86075-01100, 94162-15568 and 98131-82506. Accordingly, legal action was sought. The said complaint was enquired into by the Economic Offences Branch of District Sirsa and thereafter, the aforesaid case FIR was registered.

Apprehending arrest in this case, the present petitioners filed their separate applications before the Court of Sessions Judge, Sirsa, seeking anticipatory bail; however, the same were dismissed vide separate orders. The bail application of Rajesh Kumar @ Rajesh Kumar Singla @ Bobby Singla-petitioner No.1, was dismissed vide order dated 06.03.2023 (Annexure P-7), whereas, the bail application of Shalu Singla-petitioner No.2, was dismissed vide order dated 15.03.2023 (Annexure P-8). Accordingly, the petitioners have filed the instant petition before this Court seeking anticipatory bail.

Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in the present case by giving a criminal colour to the money dispute and business transaction between them and the complainant. It is stated that the firm owned by petitioner No.1 namely, M/s Rulia Ram Rajesh Kumar, used to do business as commission agent for purchase and sale of grains and petitioner No.2 owned the firm M/s Shri Shyam Gawar Gum Mill, which deals in producing of *gawar gum* chemical by purchasing the Gawar crop through the firm. It is further stated that the complainant party used to sell the grains through the firm owned by the petitioners and the petitioners were only doing the job of Commission Agent. It is submitted that in the year-2021, the petitioners' firms had suffered huge loss and for that reason, the petitioners' firms failed to repay the amount of the above-said business transactions to the various creditors including the complainant party. It is also submitted that there was a mutual oral *panchayati* settlement, whereby the petitioners were to repay the amount and the complainant party also had the security cheques of the petitioners. It is stated that the complainant-Som Nath Goyal and his wife, had instituted four complaints under Section 138 of the Negotiable Instruments Act. Learned counsel for the petitioners submits that the petitioners are facing litigation in following cases :-

- (i) *Complaint No.NACT/177/2021 (Som Nath Goyal vs M/s Rulia Ram Rajesh Kumar).*
- (ii) *Complaint No.NACT/175/2021 (Dayawati vs M/s Rulia Ram Rajesh Kumar).*
- (iii) *Complaint No.NACT/174/2021 (Som Nath Goyal vs M/s Rulia Ram Rajesh Kumar).*
- (iv) *Complaint No.NACT/176/2021 (Dayawati vs Shalu Singla).*
- (v) *Complaint No.NACT258/2021 (Labh Singh vs M/s Rulia Ram Rajesh Kumar).*
- (vi) *Complaint No.NACT/194/2021 (Inderjeet vs M/s Rulia Ram Rajesh Kumar).*

- (vii) *Complaint No.NACT/173/2021 (Madan Lal vs M/s Rulia Ram Rajesh Kumar).*
- (viii) *Complaint No.NACT/13/2022 (Jethu Ram vs Shree Shyam Gawar Mill).*
- (ix) *Complaint No.NACT/13/2021 (Jethu Ram vs Shree Shyam Gawar Mill).*
- (x) *Complaint No.NACT/190/2021 (Jethu Ram vs Shree Shyam Gawar Mill).*
- (xi) *Complaint No.NACT/189/2021 (Jethu Ram vs Shree Shyam Gawar Mill).*
- (xii) *Case CS No.37/57/2021 (suit for recovery titled as M/s Inderjeet Arya vs M/s Rulia Ram Rajesh Kumar and another, instituted on 27.07.2021, decided vide order dated 27.05.2022).*
- (xiii) *CS No.38/48/2021 (Madan Lal Garg vs M/s Rulia Ram Rajesh Kumar and another, instituted on 07.07.2021, decided on 16.11.2022).*
- (xiv) *Execution No.95/2022 (Mandan Lal Garg vs M/s Rulia Ram Rajesh Kumar and another).*

Learned counsel for the petitioners submits that the petitioners are ready and willing to join investigation as and when required by the Investigating Agency and also 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.

Per contra, learned State counsel as well as learned counsel appearing for the complainant, have opposed the prayer for grant of anticipatory bail to the petitioners on the ground that the complainant had made the payment of Rs.25 lakhs to the petitioners and when the said amount was demanded back, the petitioners had failed to make the payment and have rather fled away to some unknown place from Kalawali Mandi, after swindling the amount. They have further submitted that besides the amount of the complainant party, the petitioners and their families have misappropriated the amount from other person also to the tune of Rs.98,96,032/-. It is stated that apart from the present FIR, the petitioners are accused in case FIR No.220 and 223 dated 06.08.2021 and FIR No.224 dated 07.08.2021, registered under Sections 406 and 420 IPC, at Police

Station Kalanwali, District Sirsa. It is submitted that the custodial interrogation of the petitioners is required to ascertain as to the mode and manner and to what extent, the money of the complainant and other persons has been misappropriated by the petitioners and in case, the petitioners are granted anticipatory bail, they may abscond from trial. Accordingly, prayer for dismissal of the petition was made.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

In the instant case, the petitioners are specifically named in the FIR and there are clear allegations against them that they have cheated the complainant of Rs.25 lakhs and when the complainant had asked to return the amount, the petitioners were stated to have fled away to some unknown place and even their mobile phones are switched off.

During the course of hearing, it was specifically asked from the learned counsel for the petitioners as to whether the petitioners would be ready and willing to repay the amount, even in instalments; however, the plea was taken that the matter is a civil dispute and the complainant should take recourse to his civil remedies.

Another fact, which needs to be noticed is that the learned Sessions Judge, Sirsa had initially granted interim bail to the petitioners vide separate orders dated 14.02.2023 (Annexure P-2) and 22.02.2023 (Annexure P-3); however, since the petitioners did not cooperate with the police in the investigation of the case; accordingly, their anticipatory bail applications were dismissed.

Concededly the petitioners have taken the money of the complainant and several other FIRs and complaints are pending against them. *Prima facie* the conduct of petitioners is not above board.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

Serious allegations of cheating have been made against the petitioners and in my considered view, custodial interrogation in this case is found to be necessary for complete and effective investigation, especially when petitioners are involved in other case FIRs. In case, custodial interrogation of the petitioners 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.

In *State represented by the C.B.I. versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

Keeping in view the above facts and circumstances, the petitioners in the present case are 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 petitioners in case FIR No.222 dated 06.08.2021, registered under Sections 406 and 420 of the Indian Penal Code, 1860, at Police Station Kalanwali, District Sirsa; 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.

March 21, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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