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

208-1

CRM-M-21249-2023

Date of decision : 04.10.2023

Dharam Singh

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Pawan Attri, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 28.04.2023, following order was passed:-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.69 dated 27.03.2023, registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860, and Section 24 of the Immigration Act, at Police Station Nigdhu, District Karnal (Haryana) (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case on the complaint of one Sawan Kumar son of Mahender Singh, who had alleged that the co-accused Anita wife of Pawan Kumar and petitioner had taken money for sending the complainant abroad. Learned counsel further submits that the only reason for implicating the

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petitioner in the instant case is that he is father of main accused Pawan Kumar, whereas, in the FIR, no role has been attributed to the petitioner, except saying that petitioner was present when complainant had gone to meet Pawan Kumar at his house. It is submitted that the petitioner has been dragged in the FIR only to pressurize him to pay money, whereas, he has no concern with the complainant and no recovery is to be effected from him; still, the application moved by the present petitioner under Section 438 of the Code of Criminal Procedure, has wrongly been dismissed by learned Additional Sessions Judge-I, Karnal, vide order dated 21.04.2023 (Annexure P-2). It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Notice of motion.

On the asking of the Court, Mr. Amrik Narwal, Deputy Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for bail on the ground that he along with his son-Pawan Kumar had duped the complainant of Rs.15,00,000/- on the pretext of sending him abroad; however, he conceded that the fact of taking money by the petitioner is not recorded in the FIR. He seeks time to get further instructions in the matter.

List on 10.07.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting

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Officer. However, he shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day.”

2. Today, learned State counsel, on instructions from SI Satyawar, has stated that pursuant to the order dated 28.04.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. In view of above, the interim order dated 28.04.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

6. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest

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the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

- 8. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
- 9. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

04.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No