

CRM-M-24711 of 2023

2023:PHHC:080555

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

CRM-M-24711 of 2023

Date of decision: 01.06.2023

Sumit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. S.S. Mor, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

Mr. Rahul Chauhan, Advocate,
for Mr. Amarjit Beniwal, Advocate,
for the complainant.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.149 dated 21.03.2023 under Sections 323, 385, 506 IPC and Section 25 of the Arms Act, 1959, registered at Police Station City Bahadurgarh, District Jhajjar, Haryana.

2. Present FIR has been registered on the complaint of complainant Tarsem Kumar stating that he is resident of Jauhri Nagar, Bahadurgarh and working as Sr. Manager in Yes Bank, Bahadurgarh. Earlier, when he was working in HDFC Bank, Nayagaon, Bahadurgarh on the post of Assistant Manager, one Sumit (petitioner petitioner), resident of village Nayagaon, Bahadurgarh took Rs.5000/- from him.

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Two-three days prior to Holi festival, the petitioner came at Yes Bank, Bahadurgarh and demanded Rs.50,000/- from the complainant and also threatened him. On 19.03.2023, at about 4:50 p.m., the complainant was present in Main Bajar, Bahadurgarh near Najafgarh Road. Petitioner-Sumit also came there on his vehicle and started beating the complainant. He again demanded Rs. 50,000/- from the complainant and threatened him to kill. On making noise by the complainant, petitioner fled from the spot.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that now the parties have compromised the matter and the complainant has no objection in grant of anticipatory bail to the petitioner. He further submitted that petitioner has filed CRM-M-24020 of 2023 for quashing of FIR in question on the basis of compromise wherein parties have been directed to get their statements recorded before the trial Court/Area Magistrate qua genuineness of compromise. He further submitted that out of 13 cases, in which the petitioner is involved, he has been acquitted in four cases and is on bail in nine cases. He further submitted that petitioner is ready and willing to join the investigation.

4. *Per contra*, learned State counsel has vehemently opposed the prayer of the petitioner seeking anticipatory bail by submitting that there are serious allegations against the petitioner and he is a habitual offender, therefore, does not deserve the concession of anticipatory bail.

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5. I have heard learned counsel for the parties and perused the record.

6. There are grave allegations against the petitioner that he threatened the complainant thrice for extortion. Moreover, petitioner is a habitual offender as he is involved in as many as 13 more cases, out of which in one case under Section 307 IPC he has been convicted, which has not been disclosed by the petitioner. Petitioner has filed CRM-M-24020 of 2023 for quashing of FIR in question on the basis of compromise by concealing the fact of his involvement in 13 more criminal cases. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments of the Hon'ble Supreme Court in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, 2011(7) SCC 69***. Therefore, petitioner does not deserve the concession of anticipatory bail as his custodial interrogation is necessary.

7. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

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8. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. 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.”

9. In view of the above, present petition is dismissed.

10. Nothing stated heereinabove shall be construed as an expression of opinion on the merits of the case.

01.06.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No