

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

CRM-M-29993-2023

Date of decision : 08.06.2023

Rajiv Kumar Mittal

....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rishu Garg, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for grant of anticipatory bail to him in case FIR No.0027 dated 28.04.2023 under Sections 420, 468, 471 and 120-B of IPC, registered at Police Station Jhunir, District Mansa.

As per facts of the case, the police party headed by ASI Baljinder Singh while on patrolling received a secret information that Harjit Singh @ Manna was involved in buying pending loan tractors, cars and other vehicles at very low price with intention to commit fraud. He sold these vehicles at high price to innocent people by preparing forged registration copies without receiving any NOC. It was informed that he was running a gang in nexus with others. If barricading was done, he could be arrested with these vehicles having forged documents. Finding the information reliable, *ruqa* was sent and the case was registered

against Harjit Singh @ Manna. On registration of the formal FIR,

investigation commenced. During investigation, complicity of the accused-petitioner Rajiv Kumar Mittal came to the surface and he was also arrayed as an accused in this case. Apprehending arrest, the petitioner approached the Court of learned Sessions Judge, Mansa praying for grant of anticipatory bail. However, after hearing counsel for the parties, learned Sessions Judge declined the same vide her order dated 31.05.2023. Aggrieved by the same, petitioner is before this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently submitted that the petitioner has been falsely implicated in this case. He submits that the petitioner is not even named in the FIR and he has been involved in this case on the basis of the disclosure statement of the co-accused which is not even an admissible evidence. He has submitted that the secret information received was *qua* the co-accused and not regarding the petitioner. He has further submitted that neither there was any *prima facie* case made out against the petitioner as alleged nor there was any case for custodial interrogation and hence, learned Sessions Judge illegally declined the bail filed by the petitioner and thus, petitioner be granted anticipatory bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the complicity of the petitioner has been duly established in the present case and that there is strong *prima facie* case made out against the petitioner so far during the investigation. He has submitted that the petitioner is member of the gang which is carrying out a racket of selling the vehicles on the basis of forged documents. He submits that the petitioner is facing prosecution in

the other similar cases as well.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the present FIR was lodged on the basis of secret information received regarding co-accused Harjit Singh @ Manna. During the interrogation of the co-accused, involvement of the petitioner was unearth. As per the investigation conducted so far, it has been found that Harjit Singh @ Manna used to get prepared fake registration certificates from Rajiv Kumar Mittal i.e. the petitioner. Thus, the petitioner prepares forged registration certificates of the vehicles and thereafter, sells them to the innocent public. The investigation is at threshold. The petitioner is said to be involved in the similar other cases as well.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he 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; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so

arrested,

Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

31.In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and

"the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997)**

7SCC 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 ensconced 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.

Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

08.06.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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