

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

108

CRM-M-34486-2023

Date of Decision :-19.07.2023

Om Parkash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shiv Kumar Rana, Advocate for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

Mr. S.D. Bishnoi, Advocate for the complainant.

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Harsimran Singh Sethi, J. (Oral)

1. Present petition has been filed for the grant of anticipatory bail to the petitioner in respect of FIR No.0606 dated 11.11.2022 registered under Sections 406 (deleted later on), 407 and 120-B (added later on) of the IPC at Police Station City Fatehabad, District Fatehabad.

2. Learned counsel for the petitioner submits that in the present case, the allegation of misappropriation of entrusted money is on the co-accused Wilshan @ Gulshan Masih and the petitioner has only been roped in the present case on the basis of the disclosure statement of the main accused- Wilshan @ Gulshan Masih and after his arrest, he has disclosed that an amount of Rs.50,00,000/- which was entrusted to him by the complainant, had been distributed between him, petitioner and one Ajay.

3. Learned counsel for the petitioner further submits that as the petitioner was having enmity with the co-accused Wilshan @ Gulshan Masih, he has been falsely involved in the present case hence, the petitioner may kindly be granted benefit of anticipatory bail.

4. Learned State counsel on the other hand submits that keeping in view the disclosure statement of the co-accused Wilshan @ Gulshan Masih, the petitioner as well as one Ajay have been roped in the present case and the said co-accused Ajay is also a relative of the petitioner and during the custodial interrogation of the said co-accused Ajay, as of now, a sum of Rs.50,000/- has already been recovered from him and further recovery is yet to be done hence, keeping in view the facts and circumstances, the custodial interrogation of the petitioner is necessary as the petitioner is supposed to have received a sum of Rs.12,70,000/- out of the total amount of Rs.50,00,000/-, which was entrusted by the complainant to the main accused Wilshan @ Gulshan Masih.

5. Learned counsel for the complainant submits that the amount was misappropriated in connivance with each other by all the accused and the two accused, who have been named by the main accused Wilshan @ Gulshan Masih are relatives and neighbours of the main accused.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. In the present case, a sum of Rs.50,00,000/- was misappropriated from the complainant and from the evidence it has come on record that the same was done in connivance with each other by all the co-accused. The main accused namely, Wilshan @ Gulshan Masih to whom Rs.50,00,000/- was entrusted by the complainant has alleged that a sum of

Rs.12,70,000/- was given to the petitioner and it is conceded position that the petitioner is a neighbour of the said accused. Further, the other co-accused namely Ajay, who was also named in the disclosure statement, has already been arrested and during his custodial interrogation, a recovery of sum of Rs.50,000/-has been done so far, which fact shows that the custodial interrogation of the petitioner is necessary to recover the amount of Rs.12,70,000/- alleged to have been given to the petitioner. The plea that the complainant is inimical to the petitioner, cannot be accepted at this stage, for the reason that the other co-accused namely, Ajay, who is a relative of the petitioner, has also named by the main accused from whom the recovery of Rs.50,000/- of entrusted money has been done and, hence, the said ground being taken to escape from the allegations cannot be accepted at this stage.

8. Further, this is not a case, where allowing the petitioner to join investigation and cooperate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in ***State represented by the C.B.I. Vs. Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail. In the facts and circumstances of this case, custodial interrogation of the petitioner is necessary to elicit truth.

9. Keeping in view the facts and circumstances recorded hereinbefore, no ground is made out to allow the present petition seeking anticipatory bail to the petitioner.

10 Dismissed.

11. However, it is made clear that anything observed herein shall

not be construed to be an expression of any opinion on the merits of the case.

July 19, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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