

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206/4 CRM-M-40839 of 2021
Date of Decision:26.07.2023
Rupesh DagarPetitioner

Versus
State of HaryanaRespondent

2) CRM-M-16205 of 2022
Sahil Gauri @ Sahil GoriPetitioner

Versus
State of HaryanaRespondent

3) CRM-M-16459 of 2022
Sushil KumarPetitioner

Versus
State of HaryanaRespondent

4) CRM-M-18792 of 2022 (O&M)
Suraj KumarPetitioner

Versus
State of HaryanaRespondent

CORAM: HON’BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.S. Jattan, Advocate,
for the petitioner in CRM-M-40839 of 2021.

Mr. Vikas Singh, Advocate,
for the petitioner (in CRM-M-16205 of 2022).

Mr. Sandeep Singh, Advocate,
for the petitioner (in CRM-M-16459 of 2022).

Mr. Ashit Malik, Advocate,
for the petitioner (in CRM-M-18792 of 2022).

Mr. Naveen Kumar Sheoran, DAG, Haryana

Mr. Saurabh Sharma, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. All the four cases are taken up together for final disposal with the consent of learned counsels for the parties since all arise out of the same FIR and the prayer made in all these four cases is for grant of anticipatory bail.

2. All these petitions have been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner(s) in FIR No.179 dated 29.08.2021, under Sections 406 and 420 of the IPC, registered at Police Station Shahzadpur, District Ambala.

2. As per the allegations contained in the FIR, the complainant had lodged a complaint with the police by stating that he is running a factory and one of the petitioners, namely, Rupesh Dagar was working with him and he had told him that he knows some other persons who make medicines for curing Cancer and he can bring those persons to him and if some investment is made then he can earn Rs.3 crores by investing Rs.50 lacs. Thereafter, an amount of Rs.48 lacs was given to him and after that some subsequent payments by way of cash were also given to him and all

the payment given by the complainant was in cash to the tune of Rs.90 lacs. However, some of the money was allegedly withdrawn by the complainant from the bank and there are some statements to show with regard to the same.

3. All the learned counsels appearing on behalf of the petitioners have submitted that by way of interim protection, the arrest of the petitioner (in CRM-M-40839 of 2021) was stayed by vide order dated 30.09.2021 and the petitioners in the remaining three cases were also directed to join investigation vide three different orders passed by this Court and they have submitted that all the four petitioners have joined the investigation and they are fully cooperating with the investigation process. So far as the petitioner Suraj Kumar (petitioner in CRM-M-18792 of 2022) is concerned, his name did not figure in the FIR and he was nominated on the basis of disclosure statement of the co-accused. They have prayed that since even as per a perusal of the FIR itself would show that this is purely a money dispute between the parties which has been given a criminal flavour and that too allegedly the payment was made by way of cash which is yet to be proved in case the trial commences by way of adducing evidence and therefore interim orders be confirmed.

4. On the other hand, Mr. Naveen Kumar Sheoran, learned DAG, Haryana has stated that so far as the joining of all the petitioners with the investigation process is concerned, the same is correct and he has sought instructions in this regard that all the petitioners have joined the investigation. He has however opposed the grant of confirmation of bail to

the petitioners on the ground that the alleged amount is yet to be recovered.

5. Mr. Saurabh Sharma, learned counsel appearing on behalf of the complainant has opposed the confirmation of bail to the petitioners on the ground that the recovery is yet to be made from the petitioners and it can be established on the basis of some documents which can be produced to show that actually a fraud was being committed by the petitioners upon the complainant.

6. I have heard the learned counsel for the parties.

7. In pursuance of the order of this Court in CRM-M-40839 of 2021 on 30.09.2021 and in pursuance of the orders dated 21.04.2022, 22.04.2022 and 05.05.2022 passed by this Court in the remaining three petitions, all the four petitioners have joined the investigation as per the statement made by learned counsel for the State. The only objection which has been raised by learned State counsel as well as learned counsel for the complainant, that the money is yet to be recovered, cannot be sustained in view of the fact that perusal of the FIR would show that it appears to be a money dispute. The complainant was allegedly duped for Rs.90 lacs which he has allegedly given in cash. It is a settled law that the police is not meant to be recovery agents and on this ground only, anticipatory bail cannot be rejected once all the petitioners have already joined investigation.

8. In view of the aforesaid position, all the four petitions are allowed.

9. Vide order dated 30.09.2021 passed by this Court in CRM-M-40839 of 2021, the arrest of the petitioner was stayed and as per learned

State counsel, he has already joined investigation. It is directed that the petitioner shall continue to join the investigation as and when called for by the Arresting/Investigating Officer and he shall also abide by the conditions as specified under Section 438(2) of the Code of Criminal Procedure.

10. The orders dated 21.04.2022 passed in CRM-M-16205 of 2022, 22.04.2022 passed in CRM-M-16459 fo 2022 and 05.05.2022 passed in CRM-M-18792 of 2022 are made aboslute.

(JASGURPREET SINGH PURI)
JUDGE

July 26, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No