

203 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-46795-2022
Date of Decision: 27.03.2023

Vikramjeet

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Anupam Singla, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana
for the respondent/State.

Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate
for the complainant.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 of the Code of Criminal Procedure is filed seeking grant of anticipatory bail to the petitioner in case FIR No.79 dated 08.02.2020, under Sections 120-B, 420 and 506 of the Indian Penal Code, registered at Police Station Sector 32-33, Karnal, District Karnal.

On 14.12.2022, the following order was passed by a co-ordinate Bench of this Court :-

“Learned counsel for the petitioner states the allegations against the petitioner in the FIR is that the co-

accused and the petitioner, who were neighbours had agreed to send complainant and his brother abroad and further allegation is that petitioner also knew the person who can send complainant and his brother abroad.

Learned counsel for the petitioner contends that co-accused and the petitioner have only facilitated to get the air tickets and has also returned Rs. 1,50,000/- but the FIR was registered on 08.02.2020. He submits that the amount was returned by the petitioner in 2019, in five installments. He further submits that the complainant namely Sarabjit Singh and his brother were sent to Bangkok and then only complainant went to Cambodia whereas his brother came back.

Adjourned to 27.03.2023.

Learned State counsel is directed to file affidavit of the Deputy Superintendent of Police depicting the status of the co-accused and stage of investigation.

Meanwhile, the petitioner is directed to join the investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) Cr.P.C.

However, anticipatory bail, granted while exercising the judicial discretion, should not operate as an inroad into the statutory investigational power of the police.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.

Learned counsel appearing on behalf of the complainant opposes the prayer of petitioner for grant of anticipatory bail on the ground that recovery of amount is still to be effected from the petitioner.

Learned State counsel, on instructions from Sub Inspector Sukhbir Singh, submits that although the petitioner has joined the

investigation, however, some amount remains to be recovered from him.

Heard learned counsel for the parties.

The Hon'ble Supreme Court in ***“Dilip Singh Vs. State of Madhya Pradesh”***, 2021(1) R.C.R. (Criminal) 585 held as under:-

“ - x - x -

5. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realization of disputed dues. It is open to a Court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case...

... A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.

- x - x - ”

In view of the above, order dated 14.12.2022, passed by a co-ordinate Bench of this Court, is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that if the petitioner fails to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Present petition is accordingly disposed of.

27.03.2023

Apurva

(HARSH BUNGER)
JUDGE