

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

202

CRM-M-45850-2023

Date of Decision :-20.11.2023

Karnail Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Paramjit Singh Bal, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

1. Petitioner is seeking anticipatory bail in FIR No.0131 dated 20.03.2022 registered under Sections 419, 420, 465, 467, 468, 471 and 120-B of the IPC at Police Station Sohana, District SAS Nagar, Mohali.
2. Learned counsel for the petitioner submits that the petitioner has joined investigation in terms of order passed by this Court on 13.10.2023. Order dated 13.10.2023 is as under:-

“Present petition has been filed seeking the grant of anticipatory bail to the petitioner in FIR No. 0131 dated 20.03.2022, under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station Sohana, District SAS Nagar, Mohali. Learned counsel for the petitioner submits that the petitioner has filed the petition seeking grant of anticipatory bail being CRM-M26668-2022 which petition was allowed to be withdrawn by the Coordinate Bench of this Court vide order dated 16.06.2023. Thereafter, again petitioner has filed the second petition seeking anticipatory bail being CRM-M- 28995-2022, which came before this Court on 14.07.2023 and the same was also dismissed being not maintainable and following order was passed by this Court: After arguing for some time, learned counsel for the petitioner submits that keeping in view the settled principle of law that the second anticipatory bail application is not maintainable in the

absence of any fresh ground, which has come in existence after the withdrawal or dismissal of the first anticipatory bail application, the present petition may kindly be disposed of having been not pressed. Ordered accordingly.”

Learned counsel for the petitioner further submits that against the order dated 14.07.2022, the petitioner had approached the Hon’ble Supreme Court of India through Special Leave petition, stating that while withdrawing the petitions seeking anticipatory bail, petitioner was under the impression that photograph on the fictitious account was of the petitioner whereas now he had learnt that photograph on the alleged fictitious account is of someone else, which fact is material for seeking the concession of anticipatory bail, which petition was withdrawn with liberty to approach to this Court for decision of anticipatory bail on merits. The present one is third petition filed by the petitioner for the grant of anticipatory bail. Learned counsel for the petitioner argues that the present third anticipatory bail petition has change of circumstances as the accused namely Surmukh Singh against whom the allegations is to withdrawing the amount from the fictitious account has already been granted the concession of anticipatory bail by the coordinate Bench while passing the order in CRM-M-23662-2022 dated 02.06.2022, which fact was not to the knowledge of the petitioner as well as the fact that the petitioner has now come to know that the photograph on the alleged fictitious account, as maintained by the bank is of someone else and not of the petitioner, the petitioner is entitled to agitate the claim for the grant of anticipatory bail afresh especially keeping in view liberty given by the Hon’ble Supreme Court of India vide order dated 28.08.2023. On merits, learned counsel for the petitioner submits that the allegations being levelled against the petitioner is that the petitioner was behind the opening of the fictitious account in which, the compensation in respect of the land of accused Naib Singh was deposited. Learned counsel for the petitioner submits that there is no allegations that the petitioner is the beneficiary of the amount which was deposited in the said account and was later taken out of the said account rather, the petitioner is wrongly being associated with the opening of the said fictitious account as the picture of the said fictitious account holder is of somebody’s else i.e. other than the petitioner hence, as the allegations against the petitioner are yet to be proved and that the petitioner is ready to cooperate with the police, the petitioner be granted concession of anticipatory bail. Learned counsel for the petitioner further submits that during the investigation it has already come on record that the amount from the said alleged fictitious account was withdrawn by the co-accused Surmukh Singh and Surmukh Singh is already on anticipatory bail, hence once the beneficiary of the fraud is on anticipatory bail, the petitioner against whom only allegation is of opening of the fictitious account, is on much better footing as compared to the co-accused Surmukh Singh for the grant of anticipatory bail.

Notice of motion.

Mr. Gurpreet Singh, Addl. Advocate General, Punjab, accepts notice on behalf of respondents-State and submits that from the investigation conducted so far, it has transpired that the amount of compensation which was deposited by the Government in respect of the land acquired of Bhag Singh as well as Naib Singh was got

deposited in two fictitious accounts being opened in connivance with each other by the petitioner, co-accused Surmukh Singh and land owners so as to usurp the said amount in o

Learned counsel for the respondents-State submits that though in the present FIR, the petitioner's photograph is not there describing him the account holder of the said fictitious account, but, the petitioner is very much responsible for taking out the money in connivance with the co-accused Surmukh Singh. Learned counsel for the State further concedes the relevant fact that Surmukh Singh in his statement had conceded that he had taken out the amount but submits that as per the statement of co

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

The present one is the third petition filed by the petitioner seeking anticipatory bail as the first two petitions were withdrawn by the petitioner. In these two petitions, there was no order on merit deciding the issue whether the petitioner is entitled for the grant of anticipatory bail or not. Thereafter, petitioner had approached the Hon'ble Supreme Court of India through SLP No. 9349 of 2023 against order dated 14.07.2022, raising a plea that certain facts had come to his knowledge after withdrawing the two anticipatory bail application and as per the said fact petitioner cannot be treated as the account holder of the alleged fictitious account as photograph of the account holder in the record of the bank concerned is of someone else and the said petition was allowed to be withdrawn by the Hon'ble Supreme Court of India the petition with liberty to approach this Court for the decision of grant of anticipatory bail on merits. Keeping in view the totality of facts and circumstances noticed herein before especially that no order has been passed so far on merits of the case accepting or declining the anticipatory bail coupled with the fact that Hon'ble Supreme Court of India allowed the petitioner to approach this Court, the present petition is taken up for hearing to be decided on merits. The contention of the petitioner is that the account in the bank with which the petitioner is being related to with the allegations that he has got the said fictitious account opened to usurp the compensation paid by the Government on account of acquiring the land of the Naib Singh, photograph of the account holder of the account in question as available with the bank concerned, the same is not of the petitioner has not been rebutted by the State. The factum as to whether the petitioner had connived with anyone including any co accused so as to open the said account with the bank in question is yet to be come on record. The amount which was withdrawn from the said alleged fictitious account is by the co-accused Surmukh Singh, who has already been granted the concession of anticipatory bail by the coordinate Bench of this Court and the same has been confirmed by the co-ordinate Bench after the statement of the Investigating Agency.

Keeping in view the facts and circumstances of the case stated herein before as well as the undertaking given by the petitioner before this Court that he is ready to join the investigation and cooperate to find out the truth behind the incident as well as qua any recovery to be made, the petitioner has made out the case for the grant of anticipatory bail. Petitioner is directed to join the investigation forthwith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer

on his furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to a

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 20.11.2023.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes to the light against the petitioner, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

3. Learned State counsel on instructions from ASI Om Parkash, Police Station, Sohana, SAS Nagar Mohali states that in terms of the order of this Court reproduced before, the petitioner has joined investigation and he is not required for further interrogation, at this stage.

4. In view of the above, the order dated 13.10.2023 passed by this Court granting interim bail to the petitioner is made absolute.

5. However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

6. In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner is required for investigation, petitioner will join and in case he is not co-operating, State will be at liberty to approach this Court for passing appropriate orders.

7. The petition stands disposed of.

November 20, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No