

210

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-49730-2022 (O&M)****Date of decision: 03.08.2023**

Prince Jain

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

ARUN MONGA, J. (ORAL)

This is petitioner's first foray before this Court under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.192 dated 10.09.2022 registered under Sections 381, 408, 420 of IPC, 1860 at Police Station Rojka Meo, District Nuh.

2. Vide order dated 29.11.2022, following order was passed by a coordinate Bench of this Court:-

"The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.192 dated 10.09.2022 registered under Sections 381, 408, 420 of the Indian Penal Code, 1860 at Police Station Rojka Meo, District Nuh.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on the basis of disclosure statement made by co-accused Abhishek Jain, which is a very weak type of evidence. The petitioner was neither named in the FIR nor any specific role has been attributed to him. Recovery of amount of Rs.30,00,000/- has been effected from co-accused Abhishek Jain. The petitioner is not involved in any other criminal case. Nothing is to be rerecorded from the petitioner and his custodial interrogation is not required. The petitioner is already ready and willing to join the investigation.

Learned State counsel opposed the present petition in terms of reply dated 28.11.2022 filed by way of an affidavit of Sh.Satish Kumar, HPS, Deputy Superintendent of Police, Ferozepur Jhirka in the Court today which is taken on record. As per the said reply 3.500 kgs. of gold and amount of Rs.30,00,000/- have been

already recovered from the co-accused but 624 grams of gold is yet to be recovered from the petitioner.

Adjourned to 24.02.2023.

Keeping in view the fact that the petitioner has been implicated in the present case on the basis of disclosure statement made by co-accused Abhishek Jain and recovery of 3.500 kgs. of gold and amount of Rs.30,00,000/- has also been effected from him, the petitioner is hereby granted interim anticipatory bail and he is directed to join the investigation and appear before the Investigating Officer within 10 days from today and on his doing so, the petitioner shall be released on interim anticipatory bail subject to his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) of the Cr.P.C.”

3. This Court passed the following order on 20.04.2023:-

CRM-40554-2022

For the reasons mentioned in the application, the same is allowed as prayed for subject to all just exceptions

CRM-M-49730-2022

Learned State counsel, on instructions, submits that though in compliance with order dated 29.11.2022 passed by this Court, the petitioner has joined the investigation but not co-operating and stolen gold is yet to be recovered from him .

Learned counsel for the petitioner submits that out of total gold, 3.500 kgs of gold and amount of Rs.30,00,000/- qua the remaining gold i.e. 624 grams have already been recovered by the police from the co-accused Abhishek Jain and now nothing is to be recovered from the petitioner.

The petitioner is again directed to comply with order dated 29.11.2022 and appear before the Investigating Officer on 26/4/23 at 11 A.M. and render his full co-operation.

Adjourned to 03.08.2023.

Interim order to continue.”

4. On resumed hearing today, learned counsel for the petitioner submits that nothing is to be recovered from the petitioner and in lieu of 624 grams of gold, payment of Rs.18 lakh was made on 15.06.2022 which were received after selling 400 grams of gold out of 640 grams and remaining amount of Rs.12 lakhs was recovered on 16.09.2022, which was recovered after selling remaining 240 grams gold.

5. On the other hand, learned State counsel opposes the prayer made and submits that petitioner has committed serious offence and does not deserve concession of anticipatory bail.

6. Heard.

7. Following stand has been taken by the prosecution in reply to averments made by petitioner in para 4 and 5 of petition:

“4. That on 01.11.2022 Arvind Gupta Valenja Jewelers, authorized Jewelers M/s MMT PAMP India Private Ltd. Joined the investigation and handed over a pen drive KPL Steal Marka and stated that Prince/petitioner used to visit Valenja Firm after receiving the parcels by Abhishek Jain the pendrive have having CCTV Footage Videos of receiving of parcels Silver alloy by Prince Jain. The Photo of the Prince of receiving the parcels is annexed herewith as Annexure R-1. The pendrive was having also chatting from the Abhishek Jain Mobile Number 9468076773 to the Mobile Number of Arvind Gupta 9810015405. Whats app Chatting is annexed herewith as Annexure R-2. He further stated that Abhishek Jain used to book alloy order to company and deliver the same. The true translation of the statement is annexed herewith as Annexure R-3.

5. That during the course of investigation it was found that Abhishek Jain was a manager and he was the authority to book alloy orders and used to deliver for the company. He had taken gold grain for the trial. He had opened silver alloy packing and filled them with the gold grain with intention to steal the same and delivered gold grain instead of Silver alloy in the packing of silver alloy at Arvind Gupta Valenja Jewelers, 2181/62, Nai Wala Gurudwara road Second floor room number 103, Johri Bazar, Karol Bagh P.S.Karol Bagh New Delhi through Courier and from there brother in law of Abhishek Jain namely Prince Jain (petitioner) has taken the parcels after paying the price of silver alloy. By this conduct Prince had taken gold grain at the prices of silver alloy, hence, the petitioner namely Prince Jain is only person who can tell where the gold grain has been sold, hence his custodial interrogation is very much required to know where the gold has been sold.”

8. The learned Additional Sessions Judge dismissed the petitioner's anticipatory bail application vide order dated 10.10.2022 observing that in view of the seriousness and gravity of the offence and the role played by the petitioner, his custodial interrogation was required to unearth the entire crime and to ascertain where the stolen gold has been sold in the market.

9. Petitioner is the brother-in-law of co-accused Abhishek Jain. Gold weighing 3.500 kg is stated to have been stolen. Out of it, 624 gm gold is yet to be recovered. Recovery of amount of Rs. 18+12 lacs from co-

accused Abhishek Jain as asserted in the petition is different from the recovery of stolen gold.

10. In my opinion, the grant of anticipatory bail to the petitioner at this stage is likely to hamper the police investigation, particularly in the recovery of the said quantity of stolen gold and/or ascertaining where/how it has been disposed of and unearthing the crime in its entirety.

11. In view of the above, no grounds are made out to interfere.

12. Dismissed.

03.08.2023

vandana

(ARUN MONGA)
JUDGE

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