

CRM-M-50471-2022(O&M)
Date of decision: 06.01.2023

SUSHIL GARG

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Nikhil Ghai, Advocate for the petitioner.

Mr. Surinder Kumar Nagar, DAG, Haryana.

VIVEK PURI, J. (ORAL)

Petitioner is seeking anticipatory bail in the case bearing FIR No.166 dated 27.04.2022, under Sections 420/406/120-B IPC, registered at Police Station Civil Line, Kaithal, District Kaithal.

On 21.11.2022, the following order was passed:-

"Vide order dated 07.11.2022, the Investigating Officer was directed to submit report with respect to;

(i) Status of other pending FIRs against the petitioner.

(ii) Whether complainant had transferred alleged amount in the account of petitioner.

(iii) Whether petitioner is partner/proprietor/manager of the entity in the account of which alleged amount was transferred.

Learned State counsel filed status report dated 18.11.2022 by way of an affidavit of Vivek Chaudhary, DSP (AEC) Kaithal on behalf of State of Haryana, confirming that the petitioner is neither partner/proprietor/Manager of the entity in the account of which alleged amount was transferred nor alleged amount was transferred in the account of petitioner.

Notice of motion returnable for 06.01.2023.

On the asking of the Court Ms. Ankita Ahuja, AAG, Haryana accepts notice on behalf of the respondent-State.

Meanwhile, the petitioner shall join the investigation on 29.11.2022 and thereafter would remain present as and when summoned by Investigating Officer and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438 (2)

Cr.P.C.

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.”

Learned counsel for the petitioner contends that in pursuance of interim directions, the petitioner has joined the investigation and no amount has been received by the petitioner from the complainant.

On instructions from SI Roshan Lal, learned State counsel submits that though the petitioner has joined the investigation and his custodial interrogation is not required but a sum of Rs.75,000/- is yet to be recovered.

Be that as it may the controversy as to whether the petitioner has misappropriated any amount will be a debatable and moot point during the course of trial. The petitioner has joined the investigation and his custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

In view of the aforesaid submissions, the order dated 21.11.2022, granting interim bail to the petitioner is made absolute.

The petition is allowed.

06.01.2023

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(VIVEK PURI)
JUDGE

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