

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-56879-2022

Date of decision: 19.07.2023

Ramesh Garg

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Rahul Mohan, Sr. DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.0697 dated 19.11.2022 under Sections 406 and 420 of the Indian Penal Code, 1860, registered at Police Station Industrial Sector 29 Panipat, District Panipat.

2. Learned counsel for the petitioner submits that in compliance of order dated 09.12.2022, the petitioner has joined investigation and cooperated with investigating agency. He has, however, very fairly submitted that the petitioner on account of his serious medical ailments (kidney problem), was unable to deposit the amount of ₹4 lakhs with the Registry of this Court in compliance of order dated 09.12.2022 passed by a Coordinate Bench of this Court. In support of his averments that the petitioner is facing serious health issues, learned counsel has drawn the attention of this Court to Annexure P-3 which is the medical record of the petitioner. Learned

counsel for the petitioner has also, in support, placed reliance upon SLP(Crl.) No.2358 of 2023 titled as Ramesh Kumar Vs. The State of NCT of Delhi decided on 04.07.2023, wherein it was held as under:-

“26.However, a reading of the precedents laid down by this Court referred to above makes the position of law clear that the conditions to be imposed must not be onerous or unreasonable or excessive. In the context of grant of bail, all such conditions that would facilitate the appearance of the accused before the investigating officer/court, unhindered completion of investigation/trial and safety of the community assume relevance. However, inclusion of a condition for payment of money by the applicant for bail tends to create an impression that bail could be secured by depositing money alleged to have been cheated. That is really not the purpose and intent of the provisions for grant of bail. We may, however, not be understood to have laid down the law that in no case should willingness to make payment/deposit by the accused be considered before grant of an order for bail. In exceptional cases such as where an allegation of misappropriation of public money by the accused is levelled and the accused while seeking indulgence of the court to have his liberty secured/restored volunteers to account for the whole or any part of the public money allegedly misappropriated by him.....

27.Be that as it may, the High Court ought to have realized that having regard to the nature of dispute between the parties, which is predominantly civil in nature, the process of criminal law cannot be pressed into service for settling a civil dispute. Even if the appellant had undertaken to make payment, which we are inclined to believe was a last ditch effort to avert losing his liberty, such undertaking could not have weighed in the mind of the High Court to decide the question of grant of anticipatory bail. The tests for grant of anticipatory bail are well delineated and stand recognized by passage of time. The High Court would have been well-advised to examine whether the appellant was to be denied anticipatory bail on his failure to satisfy any of such tests. It does seem that the submission made by counsel on behalf of the appellant before the High Court had its own effect, although it was far from being a relevant consideration for the purpose of grant of bail.”

3. Learned State counsel, on instructions from SI Ranbir,

does not dispute the factum of the petitioner having joined investigation

and cooperated with the investigating agency. However, learned State counsel has submitted that the petitioner has not complied with order dated 09.12.2022 vide which he had been directed to deposit an amount of ₹4 lakhs in the Registry of this Court.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. Admittedly, the petitioner is suffering from serious kidney ailment due to which he was unable to comply with the order dated 09.12.2022 vide which a Coordinate Bench of this Court had directed him to deposit a sum of ₹4 lakhs before the Registry of this Court to show his bonafides. In view of the serious medical conditions of the petitioner coupled with the fact that he has joined investigation and cooperated with the investigating agency and not required for his custodial interrogation, this Court while taking a compassionate view deems it fit to waive off the condition to deposit ₹4 lakhs in the Registry of this Court, as directed by this Court vide order dated 09.12.2022.

6. The petition is allowed and interim order dated 09.12.2022, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

19.07.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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