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

**CRM-M No.2097 of 2024 (O&M)
Date of Decision: 30.09.2024**

Randhir Singh
..... Petitioner

Versus

State of Haryana
..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naveen Kumar Mehra, Advocate and
Mr. Prabhjot Singh Mann, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

RAJESH BHARDWAJ, J.
CRM-17984-2024

Allowed as prayed for.

CRM-M No.2097 of 2024

1. Present petition has been filed under Section 438 of Cr.P.C. praying for the grant of anticipatory bail to the petitioner in case FIR No.172, dated 25.03.2023 (Annexure P-1), under Sections 120-B, 406, 420 of IPC, 1860, registered at Police Station City Fatehabad, District Fatehabad. Further prayer has been made for



granting the ad-interim bail to the petitioner during the pendency of the present petition.

2. Succinctly the facts of the case are that the complainants, namely, Yashpal, Suraj Kumar, Satbir lodged the complaint wherein it was alleged that Tarsem resident of Ratta Khera was known to Satbir. Tarsem told them that his friends, namely, Tinku Garg, Naveen Saini, Randhir @ Dheera (petitioner) and Abhishek have contacts in Haryana Staff Selection Commission and they can get their children employed in the Government service. On their saying, they requested these people for providing jobs to their friends and relatives. Rs.16,00,000/- was given by the complainants to these people. Later on another amount was also given and thus, Tinku Garg and Naveen Saini received Rs.20,00,000/- in their office in Kaithal. However, neither the money was returned nor any job as promised to them was provided to their relatives. On realizing that they have been cheated, they lodged this complaint for taking the legal action against these culprits. On the basis of this complaint, the FIR was registered and the investigation commenced. Apprehending his arrest, the petitioner approached the Court of learned Sessions Judge, Fatehabad praying for the grant of anticipatory bail. However on hearing both the sides, the learned Sessions Judge, Fatehabad finding no merit, dismissed the same vide his order dated 11.12.2023. Hence being aggrieved the petitioner is



before this Court by way of filing the present petition for the grant of anticipatory bail.

3. This Court vide order dated 18.01.2024 granted the interim bail to the petitioner subject to the conditions as envisaged under Section 438 (2) of Cr.P.C.

4. Learned counsel for the petitioner has submitted that in pursuance to the order passed by this Court on 18.01.2024, the petitioner has already joined the investigation.

5. However learned counsel for the State, on instructions has vehemently opposed the interim bail granted to the petitioner. He has submitted that the petitioner has played a very active role in connivance with the co-accused in cheating the complainants. He has submitted that on the registration of FIR, the petitioner as well as Abhishek, Tinku Garg, Naveen Saini and Tarsem were found to be involved in the commission of offence in conspiracy with each other. He has submitted that the raids are being conducted on the house of all the accused and despite having been issued the notices under Section 41-A of Cr.P.C., they did not join the investigation. He has submitted that in pursuance to the order passed by this Court, though the petitioner had joined the investigation, however as he has the shelter of the interim bail, there is no progress in the investigation as neither he has cooperated during the investigation nor the co-accused could be arrested so far. He has submitted that the arrest warrants of the co-



accused were issued by the trial Court on 01.04.2024 but they could not be arrested so far. He has submitted that mobile numbers of the co-accused Tinku Garg, Tarsem and Abhishek are switched off and in such circumstances, their location is also not traced. He has submitted that the petitioner is an habitual offender as he is involved in two other cases i.e. FIR No.393, dated 28.10.2022, under Sections 420, 467, 468, 471 of IPC and Sections 66C, 66 D of IT Act, Police Station Sadar Narwana, under trial and FIR No.397, dated 09.10.2020, under Sections 420, 467, 468, 471, 120-B of IPC, Police Station City Kaithal under trial. He has submitted that as per the investigation conducted so far, HDFC bank account of the petitioner bearing No.50100107709490 and ICICI Bank account number bearing 086101504506 and 086101003052 were investigated and a transaction of Rs.6,39,000/- was found in his account regarding the victim Yashpal whereas regarding the victim Manoj Kumar, a transaction of Rs.6,50,000/- has been found. He has thus submitted that complicity of the petitioner in the offence is evident for which the custodial interrogation of the petitioner is required. He has submitted that in the facts and circumstances, no case for the grant of anticipatory bail is made out as the interim bail granted has totally resulted in hampering the investigation.

6. Learned counsel for the petitioner however has vehemently opposed the contentions raised by learned State counsel.



He has submitted that the petitioner has joined the investigation and no money has been paid to the petitioner. He has thus submitted that the interim bail granted to the petitioner vide order dated 18.01.2024 be made absolute.

7. Heard.

8. On hearing learned counsel for the parties and perusing the record, it is deciphered that the FIR has been lodged by the complainants wherein the specific allegations have been made against the petitioner and the co-accused. Though this Court had granted the interim bail to the petitioner and as per the information, he has joined also but the same has been opposed by the learned State counsel on the premise that the investigation has been scuttled. The status report has been filed by the learned State counsel and the bank statement has also been produced. The verification of the bank account of petitioner shows heavy transaction in his account, which amount is alleged to have been taken by cheating the victims. Antecedents of the petitioner are also not clean as he is already involved in two more cases of the similar nature. The Investigating Agencies though are trying to trace out the co-accused but till date, they have not succeeded in tracing them.

9. For the consideration of anticipatory bail, the statutory parameters are given under Section 438(2) Cr.P.C. which reads as under:-



Direction for grant of bail to person apprehending arrest.

- (1) *Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-*
- (i) *the nature and gravity of the accusation;*
 - (ii) *the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognisable offence;*
 - (iii) *the possibility of the applicant to flee from justice; and*
 - (iv) *where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.*

10. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. *In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of*



the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.



11. The Hon'ble Supreme Court in *State Vs. Anil Sharma*, (1997) 7SCC 187, held as under:-

“6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

12. Weighing the facts of the case on the anvil of the law settled, it is apparent that the investigation is meant for unravelling the mystery and thus, custodial interrogation of the petitioner is required.

13. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the



same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

30.09.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No