

CRM-M-5458-2024
Date of decision: 01.03.2024

...PETITIONER

V/S

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.12 dated 06.07.2023 registered under Sections 406, 420 IPC (Sections 120-B, 34 IPC added later on) at Police Station Cyber, Mohendergarh, District Mohendergarh.

2. On 02.02.2024, following order was passed:

“The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as CR.P.C) for grant of anticipatory bail to the petitioner in FIR No.12 dated 06.07.2023 registered under Sections 406, 420 IPC (Sections 120-B, 34 IPC added later on) at Cyber Police Station, Mohendergarh, District Mohendergarh.

Learned counsel for the petitioner, inter alia, contends that a perusal of the FIR supra indicates that an amount of Rs.75,000/- has been withdrawn fraudulently through ATM of the complainant. As per the tower dump details and CCTV footage, complicity of the petitioner in the alleged occurrence is completely ruled out, yet the investigating agency has nominated the petitioner as an accused. Further, maximum sentence provided for the offences alleged to be committed in the FIR registered against the petitioner is upto 7 years. It is further contended that no notice

*under Section 41A Cr.P.C. has been issued to the petitioner and as such, in view of the ratio of law culled out in the judgment of the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51**, the petitioner is entitled for bail.*

Notice of motion.

On the asking of the Court, Mr. Vikas Bhardwaj, AAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and opposes the prayer for grant of anticipatory bail to the petitioner.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51**; **Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273** and **Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 09.02.2024 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the 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.

Adjourned to 01.03.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

3. Learned State counsel, on instructions from ASI Pardeep Kumar, submits that in compliance of order dated 02.02.2024, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

4. Keeping in view the statement made by learned State Counsel the order dated 02.02.2024, is made absolute. The petitioner shall abide by the

terms and conditions enumerated in Section 438(2) Cr.P.C.

5. The petition is accordingly allowed.
6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

March 01, 2024

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(HARPREET SINGH BRAR)
JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No