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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-15961-2023 (O&M)
Date of decision: 22.08.2024

Jadgebeer Singh @ Jajbir Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deepinder Brar, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. Gursimranjit Singh, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 16, dated 18.02.2023, under Section 406 of IPC at Police Station Bahav Wala, District Fazilka.
2. Vide order dated 29.03.2023, passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 29.03.2023, passed by this Court, reads as under:

“...Present FIR has been registered on the complaint of complainant-Gurwinder Singh stating therein that the complainant was known to the petitioner-Jajbir Singh and his family being distant relative. The petitioner was running a business of sale and purchase of second hand cars prior to year 2009. It is further stated in the application that the petitioner approached the complainant that he could also join his business and assured him handsome profit. On the said assurance,

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complainant handed over an amount of Rs. 38 Lacs on 27.06.2009 and on the same day, a writing was also executed between them. The petitioner also issued receipt of amount of Rs. 38 lacs to the complainant and the deal was struck that out of the total profit, the complainant will have share of 60% and the petitioner will have share of 40%. It is further stated in the application that due to lock down in the year 2020, out of outspread of Covid-19, the business of the sale and purchase of car stopped. Complainant had purchased a car make Fortuner of the amount of Rs. 12,60,000/- for his own use and the amount was paid by him to the petitioner. The petitioner assured the complainant that he will resell the said car of complainant on a good amount and assured the complainant of handsome profit. The car was handed over by the complainant to the petitioner. In the year 2021, complainant was diagnosis with cancer and he shifted to Bathinda for his treatment, where his kidney was removed. Thereafter, for one year the complainant stayed at his house. In the year 2022, the complainant asked the petitioner for the account of the business and the petitioner admitted that out of the money given by the complainant, petitioner had purchased 16 cars, which were parked in his premises alongwith one car make Fortuner which he had taken from complainant and he also sent the list of the said cars to the complainant on whatsapp message on 19.05.2022. It is further stated that thereafter, complainant purchased one car make Thar, bearing registration No. PB-68A0010, Model 2022 for an amount of Rs. 16 Lacs and the said amount was given in cash to the petitioner. When he asked for the RC of the said vehicle from the petitioner, the petitioner started dilly dallying the matter on one pretext or the other. However, when petitioner handed over the RC of the vehicle to the complainant, he came to know that the petitioner had taken a loan of Rs.13,50,000/- on the said car from Chola Mandalam Finance. Thereafter, complainant requested the petitioner to pay the entire loan amount and to hand over all the cars to him. Initially, the

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petitioner started dilly dalling the matter on one pretext or the other but about three months prior to the registration of the FIR, when complainant went to the shop of the petitioner, he found the said shop locked and no cars were parked there. Thereafter, the complainant convened panchayat and asked the petitioner to return the amount invested by him in the business and also to return 16 cars but the petitioner flatly refused to do so. Hence, the present FIR.

Learned counsel for the petitioner inter alia contends that the petitioner is innocent and has been falsely implicated in the present case at the behest of complainant having political influence. He further submits that petitioner and complainant are the partners in the business of sale/purchase of cars since 2009 and complainant has invested Rs.38 lacs. The ratio of profit agreed between the complainant and the petitioner was 60:40 respectively. He further submits that the civil dispute has been given the criminal colour by registering the FIR against the petitioner. He further submits that the petitioner is not involved in any other case and he is ready and willing to join the investigation.

Notice of motion.

Mr. Adhiraj Singh, AAG, Punjab, accepts notice on behalf of respondent-State and seeks time to file reply/status report.

Adjourned to 28.7.2023.

In the meantime, petitioner shall join investigation before the Investigating Agency/Officer. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- 1) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.
- 2) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person

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acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

3) That the petitioner shall not leave India without prior permission of the court. Let needful be done before the next date of hearing with advance copy to learned counsel for the petitioner.”

3. Learned State counsel, on instructions from the Investigating Officer, has submitted that the petitioner has lastly joined investigation on 30.06.2024 and he is not required for custodial interrogation. However, it is contended by learned counsel for the complainant that recovery of 17 cars and the amount of money is still to be effected from the petitioner.

4. Keeping in view the above mentioned facts and circumstances and also in view of the fact that non-recovery of articles is not a ground to deny the benefit of bail to the petitioner but without meaning to make any comment on the merits of the case, the present petition is allowed and the order dated 29.03.2023, granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

22.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No