

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

202

CRM-M No. 19474-2021

Date of Decision: 23.04.2024

Satish Sharma

.....Petitioner

Versus

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Saurav Dogra, Advocate for the petitioner.

Ms. Jasleen Chahal, AAG, Haryana.

Mr. Gautam Dutt, Advocate for the complainant.

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. 156 dated 23.04.2021 under Sections 406, 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station Sector 14, District Gurugram.

2. Vide order dated 19.05.2021 the petitioner was granted interim anticipatory bail by a coordinate Bench of this Court with directions to join investigation after noticing the following submissions of the learned counsel for the petitioner:-

“Learned senior counsel for the petitioner contends that FIR No.158 dated 05.04.2018 under Sections 419, 420, 406, 467, 468, 471, 506, 120-B IPC, Police Station Badshahpur, District Gurugram is subsequent to alleged payment of Rs.5,60,00,000/- from February, 2017 to August, 2017. In the aforesaid FIR, there is no whisper about the

aforesaid payment of Rs.5,60,00,000/-. Even a disclosure statement of Rakesh Kumar in respect of an amount of Rs.20 lacs having been given to the petitioner was recorded, but the police could not find any corroborative evidence to that effect. Even the allegation of payment of Rs.20 lacs was not made by the complainant himself in that regard. The police found that no incriminating material was available against the petitioner and in the petition under Section 438 Cr.P.C., the Court initially granted interim protection vide order dated 27.01.2020 and thereafter, passed an order dated 17.02.2020 making the order dated 27.01.2020 as absolute as the petitioner was not required for further investigation in FIR No.158 dated 05.04.2018. The alleged mode of payment of Rs.5,60,00,000/- to the petitioner and the source of the aforesaid amount with the complainant would remain debatable. ”

3. Learned Senior counsel for the petitioner submits that in compliance of order dated 19.05.2021, the petitioner had been joining investigation as and when called and had been cooperating with the investigating agency.

4. Learned State counsel, assisted by learned counsel for the complainant, does not dispute the factum of the petitioner having joined investigation but has submitted on instructions that the petitioner had not been extending full cooperation during investigation as the recovery of approximately Rs 5.60 crores was yet to be affected coupled with the fact that the petitioner had been giving evasive replies as to how the Memorandum of Understanding (MoU) was executed after being notarized. Learned State counsel submits that in the aforementioned circumstances, the petitioner's custodial interrogation would be required for the recovery of about 5.60 crores and also for investigating the mode and manner in which the MoU was executed.

submissions made at the time of issuance of notice of motion which have already been reproduced in the earlier part of this order It has also been asserted that the petitioner had cooperated with the Investigating Agency and answered all the queries put in the questionnaire given to him. Learned Sr. Counsel has also submitted that in fact the complainant himself was also a signatory to the MoU in question.

Be that as it may, once the petitioner has joined investigation, merely on account of non recovery of money, he cannot be denied the concession of anticipatory bail. The MoU is already in the possession of the Investigating Agency, as not disputed by the learned State Counsel on instructions.

5. In view of the above, the petition is allowed and interim order dated 19.05.2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

23.04.2024

(MANJARI NEHRU KAUL)

Rajeev (rvs)

JUDGE

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