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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-16899-2024
Date of Decision: 05.07.2024

Suresh Kumar Goma Ram Ranawat ..... Petitioner

Versus

State of Punjab ..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Brar, Advocate,
for the petitioner.

Mr. A.S. Pannu, AAG, Punjab.

Mr. G.S. Sirphikhi, Advocate,
for the complainant.

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<u>JASGURPREET SINGH PURI, J.</u> (ORAL)

1. The present is a second petition filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.133, dated 15.10.2021, under Sections 406, 420, 120-B IPC registered at Police Station Division No.1, Jalandhar, District Jalandhar.

2. The present FIR was lodged on the basis of a complaint by alleging that a theft, embezzlement and fraud of the total amount of Rs.7,73,829/- was committed by the petitioner. The relevant portion of the FIR is reproduced as under:-

> *"…….That I on dated 28.03.2021 purchased 43.500 MT steam coal from M/S Ram Dev enterprises Office No.9, GF Plot No.42 Ridhi Sidhi Arcade to Sector-8, Gandhidham Kutch vide Bill No.RE/2020-21/355 the value of the same is Rs.3,58,060/- and for this coal, vehicle No. RJ-52-GA-3716 of Tamanna Transport*

Logistic was booked, they had to deliver the same at my Jalandhar office. Copy of Bill, E-way Bill and copy of bilty is enclosed herewith. That they have sent the same through Whatsapp. The same was of Sai Kirpa Roadlines when I enquired them that your transport is Tamanna Transport then they told that Sai Kirpa Roadlines is also sister concern of Tamanna Transport. For this consignment I had given Rs.30,000/- in advance to accused No.1 and 2 on dated 28.03.2021 and on dated 29.03.2021 the amount of Rs.25,000/- and on dated 30.03.2021 the amount of Rs.20,000/- have been deposited through my party Surjit Kang in the account of accused No.1 and 2 which they have provided. After that amount of Rs.10,000/- have been deposited by me on dated 02.04.2021 in the given account of accused No.1 and 2 from Jalandhar and this way I have given them amount of Rs.85,000/- in advance for the expense of transport. I am presenting before you the evidence of the entire transaction. 2. That when I have not received the consignment after making the payment of abovesaid amount then I contacted the driver of abovesaid vehicle bearing No.RJ-52-GA-3716 on his mobile phone No.97857-98693 and I enquired about the consignment then driver told me that he is on the way and will reach at the earliest. But, after making the call of number of times, when I have not received the consignment then I sternly asked the driver. On this he told me that the accused No.1 and 2 told him that the consignment is to deliver to UP and he has delivered there and he knows nothing about my consignment. 3. That when I enquired the whole conversation from accused No.1 and 2 over the phone, at first they kept denying the same but later on they admitted that they had made a mistake and they sold my material at UP and misappropriated the same and they *spent the entire amount which they have received.....”*

3. On the last date of hearing when the notice of motion was issued, the following order was passed:-

> *“Learned counsel for the petitioner submitted that earlier the anticipatory bail petition of the petitioner was dismissed by this Court on 27.07.2023 on the ground that he could not join the investigation although interim protection was granted to him but there were certain compelling circumstances which have been so stated in the petition, wherein not only the mother and the wife of the petitioner were suffering from various diseases but thereafter, the petitioner also suffered a fracture although after the dismissal of the earlier anticipatory bail petition. He further submitted that it is a case where there is a pure and simple commercial transaction and the subject matter is only Rs.7,73,829/- and he has specific instructions from the petitioner to state that whatever time frame is fixed by this Court, he will adhere to the same and will join the investigation.*
>
> *Notice of motion.*
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> *Mr. Adeshwar Singh Pannu, AAG, Punjab, accepts notice on behalf of the respondent-State.*
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> *After hearing learned counsel for the petitioner and perusing the contents of the petition, this Court is of the view that although ordinarily this Court would not interfere in the second successive anticipatory bail petition but considering the submissions made by the learned counsel for the petitioner and the contents of the petition, wherein the petitioner has so stated that both his mother and wife were suffering from various diseases and it was beyond his control to have joined the investigation despite orders passed by this Court, the*

circumstances stated by the petitioner appear to be exceptional circumstances and therefore, in exceptional circumstances this Court can certainly interfere even in the second successive anticipatory bail petition.

In view of the above, the petitioner is directed to join the investigation within a period of four weeks from today and to co-operate fully with the investigation process and on his doing so, the petitioner be released on interim bail, subject to his furnishing personal bonds and surety to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

The concerned Investigation Officer is also directed to permit the petitioner to join the investigation.

Adjourned to 05.07.2024."

4. Today, Mr. A.S. Pannu, learned AAG, Punjab, on instructions from ASI Nasib Chand, who is present in the Court, stated that in pursuance of the aforesaid order, the petitioner has already joined the investigation. He has however submitted that the recovery of disputed money has not been effected from the petitioner in this regard.

5. Mr. Gagandeep Singh Sirphikhi, learned counsel for the complainant has opposed the grant of anticipatory bail to the petitioner on the ground that since the petitioner has committed the offence of fraud and embezzlement which is apparent from the FIR itself, he does not deserve the concession of anticipatory bail and only his custodial interrogation can reveal the truth.

6. I have heard the learned counsels for the parties.

7. It is a case where the allegations are pertaining to an amount of Rs.7,73,829/-. The present is a second successive bail petition and this Court has already considered and dealt with the issue of maintainability when notice of motion was issued by this Court on 08.04.2024. Be that as it may, this Court is of the view that considering the aforesaid facts and circumstances and the fact that the petitioner has now joined the investigation as per the learned State counsel, the mere fact that the recovery of disputed amount of money has not been effected from the petitioner cannot become a ground for denial of anticipatory bail to the petitioner. It is a settled law that the police is not a recovery agent. During the course of arguments, a specific query was raised to the learned counsel for the complainant as to whether any suit for recovery was filed against the petitioner to which he submitted that no such suit for recovery has been filed.

8. Since the petitioner has already joined the investigation, the present petition is allowed and the order dated 08.04.2024 is hereby made absolute.

05.07.2024 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No