

2024 : PHHC : 060129

215/2

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.19088 of 2024

Date of decision: 30th April, 2024

Dev Raj Dutta

... Petitioner

Versus

Central Bureau of Investigation

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Parvinder Singh, Advocate for the petitioner.

Mr. Gagandeep S. Wasu, Spl. Public Prosecutor
for the respondent/CBI.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail in FIR No.RC005202020A0011/CBI/ACB/CHANDIGARH dated 08.07.2020 for the offences under Sections 120-B, 420, 406, 403 of the IPC and Sections 13(2), 13(1) of the Prevention of Corruption Act, 1988 registered at Police Station ACB Chandigarh.

2. On the last date of hearing i.e. 19.04.2024, learned counsel for the petitioner had made the following submissions, pursuant to which notice of motion was issued by this Court:

“Learned counsel inter alia contends that the petitioner has been nominated as an accused in the instant case primarily on two grounds, (i) the disbursement of loans was on the basis of storage receipts and not warehouse receipts; there was non-adherence to pre-

sanction formalities. It has been further submitted that as far as offences under the Prevention of Corruption Act, 1988 were concerned, it was a matter of record that no sanction had been granted by the Bank to prosecute the petitioner. In support, learned counsel has drawn the attention of this Court to Annexure P-2, order dated 15.07.2023 passed by learned Special Judge, CBI, Punjab. It has been further submitted that investigation is complete and challan also stands presented; the entire case of the prosecution rests on documentary evidence and no recovery thus, is required to be affected from the petitioner.”

3. Learned Spl. Public Prosecutor for the CBI has filed short reply by way of an affidavit of Insp. Ankush Sharma today in the Court, which is taken on record subject to all just exceptions. He has not disputed that the competent authority i.e. the bank in the case of the petitioner has declined to give sanction to prosecute the petitioner and offences under the Prevention of Corruption Act, 1988 stand deleted.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. It would be pertinent to refer to the following parameters set forth by the Constitution Bench of Hon'ble the Supreme Court in **‘Sushila Aggarwal and others vs. State (NCT of Delhi) and another’ (2020) 5 SCC 1** while considering grant of anticipatory bail:

“112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- (i) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- (ii) *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- (iii) *The possibility of the applicant to flee from justice;*
- (iv) *The possibility of the accused's likelihood to repeat similar or the other offences.*
- (v) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- (vi) *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- (vii) *The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- (viii) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full*

investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

6. Furthermore, Hon'ble the Supreme Court in '**Satender Kumar Antil vs. Central Bureau of Investigation & another**' 2022 **LiveLaw (SC) 577**, has outlined the following requisite conditions for grant of bail to a person accused of offences punishable with imprisonment of 07 years or less, not falling in category B and D:-

- (1) Not arrested during investigation
- (2) Cooperated throughout in the investigation including appearing before investigating officer whenever called.

7. Since admittedly sanction has not been accorded by the competent authority coupled with the fact, as conceded by the CBI that investigation has concluded and challan stands presented, the petition is allowed as no purpose would be served in incarcerating the petitioner.

The petitioner is directed to put in appearance before the learned Spl. Magistrate CBI, Mohali within 07 days from today. On appearance, he shall be released on bail to the satisfaction of the Court concerned subject to the condition that he shall also surrender his passport before the Court concerned.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

April 30, 2024
rps

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