

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-M-40157-2023(O&M)
Date of decision: 02.04.2024

Mahender Soni
...Petitioner
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shailendra Mohan, Advocate for the petitioner.
Mr. Kiran Pal Singh, AAG, Haryana.
Mr. Jatinder Kansal, Advocate for
Mr. Abhinav Gupta, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure (for short ‘Cr.P.C.) has been filed for grant of pre-arrest bail to the petitioner in FIR No. 0167 dated 21.04.2018, under Section 406 of Indian Penal Code, 1860 (Sections 120B, 420, 467, 468, 471 of Indian Penal Code added later on), registered at Police Station, Dharuhera, District Rewari.

(2) Allegations are that petitioner-Mahender Soni and co-accused-Jagbir prepared forged and fabricated documents and duped complainant to the tune of Rs. 56,50,000/-.

(3) Contends that the Coordinate Bench of this Court granted interim bail to the petitioner on 06.10.2023 and in terms thereof, he has already joined the investigation and his custodial interrogation is not required.

(4) Above factual position is duly acknowledged by learned State counsel, on instructions from the police officer present in Court and further stated that custodial interrogation of the petitioner is not required at this stage.

(5) On the other hand, learned counsel for the complainant opposed the prayer on the premise that recovery of alleged amount is yet to be effected.

(6) Heard learned counsel for the parties and perused the paper-book.

(7) It transpires that petitioner was granted interim bail by the Coordinate Bench on 06.10.2023 and order reads as under:-

“ Prayer in this petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail in case FIR No. 0167 dated 21.04.2018, under Section 406 IPC (Section 420, 467, 468, 471 and 120-B IPC added later on), registered at Police Station Dharuhera, District Rewari.

Learned counsel for the petitioner submits that initially the FIR was registered under Section 406 IPC. It is alleged that registration of the FIR was a counter-blast to proceedings initiated by the petitioner against the complainant. It is further submitted that the transactions pertain to the year 2012 and the FIR in question was registered on 21.04.2018. The offences under Sections 420, 467, 468, 471 and 120B IPC were added after the complaint under Section 138 of the Negotiable Instruments Act was dismissed and the complainant was resultantly discharged in the said proceedings. It is further submitted that the petitioner had earlier approached this Court by way of CRM-M-22979-2018 titled Mahender Kumar and others vs. State of Haryana and another, for quashing of the FIR as it was originally registered, in which proceedings this Court granted interim protection clarifying that if the petitioners are required by the investigating agency, they be given three days' prior notice. The said petition was dismissed as withdrawn on 08.05.2023. It is also submitted that the proceedings are going on for a long time and additional offences

have been added only on 15.06.2023. The petitioner is ready to join investigation and assist the investigating agency.

Notice of motion.

Mr. Gurbir S. Dhillon, A.A.G., Haryana, accepts notice on behalf of respondent-State and waives service. He seeks time to file reply/status report.

At this stage, Mr. Raj Karan Singh, Advocate appearing for Mr. Abhinav Gupta, Advocate puts in appearance on behalf of the complainant and opposes the present bail application; and undertakes to file his Power of Attorney in the Registry before the next date.

List on 22.11.2023.

In the meanwhile, petitioner shall join the investigation and would associate as and when called. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal bond and surety to the satisfaction of Arresting Officer/Investigating Officer. The petitioner shall abide by the conditions specified in Section 438 (2) Cr.P.C.”

(8) It is acknowledged by learned State counsel that in pursuance of above order, petitioner has joined investigation and his custodial interrogation is not required at this stage.

(9) Although, learned counsel for complainant objected to the prayer of the petitioner, but State is not asking for custodial interrogation. Moreover, the amount in question is alleged to have been paid in the year 2012 whereas present FIR was registered after an unexplained delay of six years on 21.04.2018, therefore, the objection of complainant is rejected.

(10) In view of above, interim order dated 06.10.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

- (11) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (12) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (13) It is made clear that in case of any recurrence on the part of the petitioner, the State would be at liberty to move an application for recalling of this order.
- (14) Disposed off accordingly.
- (15) Pending application(s), if any, shall also stand disposed off.

02.04.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No