

104 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-34286-2024
Date of decision: 19th July, 2024

Rajinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Simranjeet Singh Sarwara, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.
Mr. Som Nath Saini, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
44	07.06.2024	Julkan, District Patiala	420, 467, 468, 471 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of complaint got lodged by the complainant Babalpreet Singh alleging therein that the present petitioner entered into an agreement to sell his fortuner car bearing No. PB-11CT-9277 to him for a sum of Rs. 7,50,000/-.
As per the terms of the agreement, the complainant deposited an amount of



Rs. 2,00,000/- in the bank account of wife of the petitioner and another sum of Rs. 3,00,000/- was paid in cash to his wife in the presence of the petitioner on 07.07.2023 and the remaining amount was given by way of cheque/cash to the petitioners. On 03.10.2023, the petitioner had sworn an affidavit in favour of the complainant thereby affirming that all taxes, challan and loan, if any, on the said vehicle would be cleared by him. The petitioner and his wife also gave registration certificate of the abovesaid vehicle to the complainant. However, the complainant subsequently came to know that the fortuner vehicle was already lying mortgaged with a bank and registration certificate so given was a false and fabricated document. He asked the petitioner to return his money but in vain. Therefore, he has prayed for taking action against the petitioner and his wife. After registration of FIR, apprehending his arrest, the petitioner had moved an application for anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Patiala vide order dated 11.07.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. It is submitted that FIR has been lodged after significant delay. The transaction between the parties was commercial in nature. All the documents of sale of vehicle were duly documented and were transparent. The receipts and affidavit were provided to the complainant showing the commitment of the petitioner to utmost clarity and honesty in the transaction. No concealment had been made. All the previous instalments pertaining to the fortuner vehicle had already been paid by the petitioner to the financier except some penalty and this fact was made known



to the complainant. While dismissing his plea for grant of pre-arrest bail, the learned Sessions Court had not considered this fact. Petitioner is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him as the entire case is based on documents. No purpose would be served by detaining him in custody. Therefore, it is urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that there are serious and specific allegations against the petitioner who is a person of criminal antecedents since another FIR bearing No. 187 dated 19.07.2023 on similar allegations stands registered against him at Police Station Patran, Patiala. He has not only cheated the complainant by concealing the factum of the fortuner vehicle lying mortgaged with the bank but also committed forgery by giving a fabricated and false registration certificate of the vehicle sold by him to the complainant. His custodial interrogation is required for unearthing the truth and eliciting the information about the manner in which he had forged this registration certificate, even otherwise no extra ordinary circumstance has been made out for grant of pre-arrest bail. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner in common intention with his wife is alleged to have deceived the complainant by selling him one fortuner car while concealing the fact that the said vehicle was not free from encumbrances and



was lying mortgaged with a bank and penalty/instalments over the same were due. He is also alleged to have forged a false document in the shape of registration certificate of the said vehicle and handed over the same to the complainant. The allegations against him are quite serious in nature. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. The privilege of the pre-arrest bail should be granted only in exceptional cases as grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and therefore, the Court must be circumspect while exercising power for grant of anticipatory bail which is not to be granted as a matter of rule and it has to be granted only when the Court is convinced that exceptional circumstances exist to resort to this extra ordinary remedy. In the instant case, no extra ordinary circumstance warranting exercise of powers of grant of anticipatory bail has been made out, rather, in my considered opinion, the custodial. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the nature of the subject offences and no extra ordinary circumstance is shown to have been made out in this case, I am of the considered opinion that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police. Accordingly, no ground for extending benefit of pre-arrest bail is made out. Hence, the petition stands dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

19th July, 2024
Parveen Sharma

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