IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206 **CRM-M No.35301 of 2024**
Date of decision: 17.09.2024

SATISH KUMAR AND ANOTHER **…. Petitioners**

Versus

STATE OF HARYANA **…. Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Nitish Bhatia and Mr. Raj Kumar Bhatia, Advocates for the petitioners.
Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

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MANISHA BATRA, J. (oral)

1. The present petition has been filed by the petitioner for grant of anticipatory bail in case FIR No.540 dated 12.09.2020 registered under Sections 406 and 420 of IPC at Police Station Sirsa City, District Sirsa.

2. Vide order dated 07.08.2024, passed by this Court, the petitioners were released on interim bail and were directed to join investigation. Order dated 07.08.2024, passed by this Court, reads as under:

> *"The present petition has been filed by the petitioner seeking pre-arrest bail in case arising out of FIR No.540 dated 12.09.2020 registered under Sections 406 and 420 of IPC at Police Station Sirsa City, District Sirsa on the basis of a written complaint filed by the complainant-Vijender Saini alleging therein that in the year 2012, he had made investment of some of money in his name as well as in the name of his family members and his relatives had also made investment in a company known as Sarbhit Housing and Infrastructure India Ltd. or Sarbhit Developer India Ltd. which was engaged in the business of*

making investments of money and then purchase of land by representing that the profit so received by sale of such land would be distributed with the investors. While alleging that that the amount of ₹2.73 crores had been invested with the above said company and that the Directors of the company neither refunded the same money nor any land was purchased in the names of investors, he prayed for taking action in the matter against the petitioners who were among the Directors/Managers/Managing Director of the Company. After registration of the FIR, investigation proceedings were initiated and are underway. Apprehending their arrest, the petitioners had moved an application for grant of anticipatory bail which had been dismissed by the Court of learned Sessions Judge, Sirsa vide order dated 18.07.2024.

It is argued by learned counsel for the petitioners that he has been falsely implicated in this case. A petition has also been filed for quashing of the FIR which is pending before this Court. The FIR has been lodged after a gap of 8 years from the date of alleged investments. They are ready to join the investigation. Their custodial interrogation is not required. The petitioners are not the Directors of the above named company since the year 2016 and they have resigned from the same. The complainant is not the victim in this matter as there is nothing on record to show that he had made any investment. He further submits that learned trial Court could not take cognizance of the matter as due to the

FIR being time barred. Therefore, it is urged that the petition deserves to be allowed.

Learned State counsel who has appeared on advance notice of the petition, has filed the status report. The same is taken on record. He argued that petitioner No.1 who was the Managing Director of the above named company a brochure of this company published at the relevant time shows the same. He is the master mind of the subject crime. Money invested by the complainant as well as several innocent investors had been criminally misappropriated by deceiving them. Custodial interrogation of the petitioners are required, therefore, it is urged that petition does not deserve to be allowed.

Adjourned to 17.09.2024.

In the meantime, the petitioners are directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of their arrest, the Investigating/Arresting Officer shall release the petitioners on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C."

3. Learned State counsel has submitted that though the petitioners have joined the investigation on 16.08.2024, however they have not co-operated with the investigating agency and no part of money as invested by the

complainant had been recovered by either of them. It is well settled proposition of law that the criminal law process, especially while deciding applications for bail, should not be used for coercion or recovery of money and rather it should be based on merits of the case. The decisions in bail applications should not be made on the nature of accusation, severity of potential punishment and likelihood of an accused absconding. Reference in this regard can be made in ***Dilip Singh vs. State of Madhya Pradesh and another, 2021(R) RCR (Criminal) 585*** wherein, it was observed by this Court that a criminal Court exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as recovery agent to realize dues of complainant without there being any trial. Further reliance can also be made to ***Manoj Kumar Sood and Another vs. State of Jharkhand, Special Leave to Appeal (Crl.) NO.1274 of 2021 decided on 19.03.2021*** wherein, it was observed that disputed dues cannot be recovered in criminal proceedings.

4. In view of this position of law, the petitioners cannot be denied bail only because of the fact that the disputed money has not been recovered by them. In my considered opinion, no useful purpose would be served by detaining the petitioners in custody. Hence, the present petition is allowed and order dated 07.08.2024 granting interim bail to the petitioners is made absolute, subject to compliance of terms and conditions requisite for grant of anticipatory bail.

(MANISHA BATRA)
JUDGE

17.09.2024
Jyoti-IV

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