**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**206** **CRM-M-40132-2024**
**Date of Decision: 20.11.2024**

**DEEPAK GUPTA**

. **....PETITIONER**

VERSUS

**STATE OF PUNJAB AND ANOTHER**

**....RESPONDENTS**

**CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA**

Present : Mr. Ompal Sharma, Advocate &
Mr. Harpal Singh Parmar, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. Vishal Mehta, Advocate
for respondent No.2.

**MANISHA BATRA, J. (Oral)**

The present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, seeking anticipatory bail in FIR mentioned below:-

| **FIR No.** | **Dated** | **Police Station** | **Sections** |
|---|---|---|---|
| 0064 | 03.06.2024 | Doraha, Police District Khanna, District Ludhiana | 420 and 120-B of IPC |

2. Vide order dated 21.08.2024 passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 21.08.2024 is reproduced as under:-

*"The present petition has been filed by the petitioner for grant of anticipatory bail in case arising out of FIR No.64*

*dated 03.06.2024 registered under Sections 420 and 120-B of IPC, at Police Station Doraha, Police District Khanna, District Ludhiana on the basis of written complaint filed by the complainant-Akashdeep Singh alleging therein that he came in contact with the present petitioner in the year 2022. The petitioner was engaged in the business of sale of sanitary ware and building material. He persuaded the complainant to join him in the said business by saying that same would fetch good profit and they will jointly share this profit. The father of the petitioner also made the similar representation and induced the petitioner to invest money for starting business of sanitary ware and building material. On being so induced, he had given a sum of `15,28,000/- to the petitioner on 11.09.2023. The petitioner had assured that he would search showroom at his own level. The petitioner had handed over his two signed blank cheques as security. Thereafter also he extracted huge amount of money i.e. sums of `13,22,000/- and `28,50,000/-, respectively from the complainant at different point of time. However, neither any showroom was taken nor the business of sanitary ware and building material was started by the petitioner and his father, and when the complainant started confronting them, they started putting off the matter on one pretext or the other and then the petitioner proclaimed that he was going abroad and the complainant would not be getting any money back from him. On the basis of this complaint, the aforementioned FIR was registered. Investigation proceedings were initiated and are underway.*

*Apprehending his arrest, the petitioner had moved an application for grant of pre arrest bail which was dismissed by learned Additional Sessions Judge, Ludhiana vide order dated 06.08.2024.*

*It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. In fact, there* *are many transactions between the complainant and the petitioner. The petitioner and his family members had handed over cheques to the complainant in the year 2016 and 2019, respectively. He had taken loan from him firstly in the year 2016. He had returned the entire amount. However, the cheques and pro-notes signed by the petitioner and debit cards belonging to his family members and himself were retained by the complainant. In fact, he has repaid the amount of `38,00,000/- to the complainant though he had taken an amount of `28,50,000/- only from him. His custodial interrogation is not required and he is ready to join the investigation. No recovery is to be effected from him. Therefore, it is urged that the petition deserves to be allowed.*

*Notice of motion.*

*Learned State counsel, who has appeared on advance notice of the petition, seeks time to file status report in the matter.*

*At this stage, Mr. Vishal Mehta, Advocate appeared on behalf of respondent No.2 and has filed his vakalatnama. The same is taken on record.*

*Learned State counsel as well as counsel for respondent No.2 have argued that there are serious and specific allegations against the petitioner. Only meagre amount of money has been repaid by the petitioner to the complainant by way of bank transactions. Recovery of the same is to be effected and for that purpose, his custodial interrogation is required, Therefore, it is urged that the present petition does not deserve to be allowed.*

*Adjourned to 24.09.2024.*

*In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within a period of 10 days or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner 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 petitioner has joined the investigation on 29.08.2024, however he has not co-operated with the investigating agency and no part of money as invested by the complainant had been recovered by either of him. 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 petitioner cannot be denied bail only because of the fact that the disputed money has not been recovered by him. In my considered opinion, no useful purpose would be served by detaining the petitioner in custody. Hence, the present petition is allowed and order dated 21.08.2024 granting interim bail to the petitioner is made

absolute, subject to compliance of terms and conditions requisite for grant of anticipatory bail.

**( MANISHA BATRA )**
**JUDGE**

**November 20, 2024**
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1. *Whether speaking/reasoned* *Yes/No*
2. *Whether reportable* *Yes/No*