



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M No.41176 of 2024
Date of decision: 26.09.2024

HIMANSHU GAUTAM**.... Petitioner**

Versus

STATE OF HARYANA**.... Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present : Mr. Saurabh Savara, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana and
Mr. Harkesh Kumar, A.A.G, Haryana.

MANISHA BATRA, J. (oral)

1. The present petition has been filed by the petitioner for grant of anticipatory bail in case FIR No.232 dated 13.09.2023, under Sections 406 and 420 IPC registered at Police Station Industrial Sector – 7 Manesar, District Gurugram.

2. Vide order dated 23.08.2024, passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 23.08.2024, passed by this Court, reads as under:

“Through the instant petition, prayer is made for grant of anticipatory bail to the petitioner in case arising out FIR No. 232 dated 13.09.2023, under Sections 406 and 420 IPC registered at Police Station Industrial Sector – 7 Manesar, District Gurugram on the basis of complaint lodged by the complainant-Pankaj Kumar Jha alleging therein that the petitioner who is brother-in-law induced to pay sum of



Rs.13,50,000/- to him for the purchase of car Brezza of Maruti Suzuki Company by assuring that he would be getting 50% discount. He even called him at Gate No.2, Maruti Suzuki IMT Manesar. However, after receiving abovesaid amount of money, the petitioner did not get purchased any car in his favour nor returned the amount of Rs.13,50,000/- which have been taken by him by way of bank transactions. He further alleged that the petitioner had cheated him and had misappropriated the amount given by him. After registration of FIR, investigation is underway. On apprehension of his arrest, he had moved pre arrest bail application before the learned Addl. Sessions Judge, Gururgram which had been dismissed vide order dated 05.04.2024.

It is argued by learned counsel for the petitioner that in fact it was the complainant who was making transactions from his bank account as taking advantage of their relationship. He had taken access to the bank account of the petitioner. He had been depositing money and withdrawing the same from the bank account of the petitioner. A false story has been concocted with regard to getting 50% discount on purchase of car. In fact no such discount was ever offered by Maruti Suzuki India Ltd at Manesar. The FIR has been lodged after a gap of three and a half years after making concoction and after due deliberation. No recovery is to be effected from the petitioner. His custodial interrogation is not required. He is ready to join the investigation.

Notice of motion.



Learned State counsel who has advance notice of the petition seeks time to file status report.

Adjourned to 26.09.2024.

In the meantime, the petitioner is 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 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 03.09.2024, however he has not co-operated with the investigating agency as no part of money had been recovered from him.

4. 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.

5. 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 them. 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 23.08.2024 granting interim bail to the petitioner is made absolute, subject to compliance of terms and conditions requisite for grant of anticipatory bail.

26.09.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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