



CRM-M-42550-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

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CRM-M-42550-2024  
Date of decision: 13<sup>th</sup> November, 2024

Sanjay  
Versus  
State of Haryana  
...Petitioner  
...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Karan Singh, Advocate for the petitioner.  
Mr. Neeraj Poswal, AAG, Haryana.  
Mr. Aditya Sanghi, Advocate for the complainant.

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MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner seeking anticipatory bail in the FIR mentioned below:-

| FIR No. | Dated      | Police Station                             | Sections                      |
|---------|------------|--------------------------------------------|-------------------------------|
| 37      | 15.02.2024 | Industrial Area, Bhiwani, District Bhiwani | 406, 420 and 506 of IPC, 1860 |

2. As per the prosecution case, the aforementioned FIR was registered on the basis of complaint filed by the complainant-Rekha Raghav alleging therein that the petitioner who was distantly related to her had induced her to part with money by alluring her that he was a politician and could procure a ticket for the post of Chairman, Municipal Council, Bhiwani



for her and for that purpose, she was required to give money for party fund. The complainant was made to give a total sum of Rs. 52,00,000/- to the petitioner by different modes on different dates. Subsequently, she came to know that the money so given was not for party fund, the petitioner then told her that he had invested that money in property. On the insistence of complainant, he issued two cheques amounting of Rs. 10,00,000/- each in her favour, which were dishonored on presentation. The petitioner had been extending threats to kill the complainant or to commit suicide and write a suicide note against the complainant. As such, she prayed for taking action. After registration of FIR, investigation is underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the learned Additional Sessions Judge, Bhiwani which was dismissed vide order dated 09.08.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that infact the complainant along with himself, invested money in the said property and as the complainant suffered loss in that investment, she threatened the petitioner to either compensate her or otherwise she would involve him in false cases. The complainant had paid an amount of Rs. 10,00,000/- through cheque and Rs. 1,00,000/- through 'PhonePe' UPI application and an amount of Rs. 7,00,000/- through cash. However, still she lodged this complaint against her by distorting facts. It is also argued that he has already joined the investigation. His custodial interrogation is no more required. The offences of cheating and criminal misappropriation of money have not been made as



against him. No recovery is to be effected from him. Therefore, it is urged that the petition filed by him deserves to be allowed and the order of interim bail deserves to be made absolute.

4. *Per contra*, learned State counsel assisted by learned counsel for the complainant has resisted the contentions as raised by the petitioner in terms of status report filed by respondent-State. It is submitted that the respondent-complainant had produced pen-drive and transcripts of telephonic conversation which took place between the petitioner and herself which is in the custody of the police which revealed that the petitioner had taken money from the complainant on the pretext of getting herself elected as Chairman of Municipal Council. It is further submitted that the account statement of the bank account of the petitioner has been collected during investigation and it has been revealed that he purchased jewelry from K.S. Jewellers from the money received from the complainant, on different dates. It is also submitted that the custodial interrogation of the petitioner is required for recovery of jewelry purchased from K.S. Jewelers from the money belonging to the complainant as well as for proper and thorough investigation of the matter. It is argued that the petitioner is involved in several other cases. He is a habitual offender and is also an absconder as two cases under Section 174-A of IPC have also been registered against him. There are chances of his absconding, if extended benefit of pre-arrest bail. It is also submitted that he has taken totally different pleas in the application filed by him before the court of learned Additional Sessions Judge while seeking relief of anticipatory bail. Therefore, it is argued that the petition



does not deserve to be allowed.

5. Vide order dated 30.08.2024, the petitioner was ordered to be released on interim bail subject to his joining investigation and furnishing bonds to the satisfaction of Investigating Officer/Arresting Officer. He has joined investigation on 12.09.2024. The petitioner has admittedly issued two cheques for a sum of Rs. 10,00,000/- each in favour of the complainant which have been dishonored and it is also not in dispute that complaints under Section 138 of Negotiable Instruments Act, 1881 (for short 'NI Act') as filed by the complainant are pending against the present petitioner. It is a debatable question as to whether, there was an inducement on the part of the petitioner against the complainant to deliver the aforementioned amount for the purpose of getting her appointed as a Chairman or it was given for the purpose of investment. It is only on the basis of thorough assessment of the evidence to be produced during trial that it can be determined as to whether, the ingredients of offence punishable under Section 420 of IPC are attracted in this case or not? It is also to be taken into consideration that the offence under Section 406 of IPC is antithesis to the offence under Section 420 of IPC. The well settled proposition of law is that criminal proceedings are not for realization of the disputed dues. Though no doubt it is open for a Court to grant or refuse prayer for grant of anticipatory bail depending on the facts and circumstances of a particular case, however, the Court is simultaneously not expected to act as a recovery agent to realise the dues of the complainant and that to without any trial. Reliance in this regard can be place upon '*Dilip*

*Singh Vs. State of Madhya Pradesh and another, 2021 (1) RCR (Criminal)*



*585, 'Ramesh Kumar Vs. State of NCT of Delhi, 2023 AIR (SC) 3484', 'Manoj Kumar Sood and another Vs. State of Jharkhand, special leave to appeal (crl.) No. 1274 of 2021, decided on 19.03.2021' and 'Bimla Tiwari Vs. State of Bihar and others, Special Leave Petition (Criminal) Nos. 834-835 of 2023'. Moreso, criminal complaints under Section 138 of NI Act are already pending against the petitioner. He would suffer consequences, if offence under Section 138 of NI Act is proved against him. In '*G.Sagar Suri Vs. State of U.P., (2001) 1 RCR (Criminal) 707*', the Hon'ble Supreme Court observed in such case that there was no occasion for the complainant to prosecute the accused under Section 406 and 420 of IPC, as it was abuse of process of law. The complainant has already filed complaints under NI Act and if at all the offences alleged against the petitioner are proved resulting into his conviction, he would be bound to suffer penal consequences. A transcript of the conversation alleged to have been recorded between the complainant and the petitioner has been shown to this court which suggests that the complainant had given money to the petitioner. However, neither the same can be taken into consideration at this stage for the purpose of deciding this application nor any other inference can be drawn from the same at this stage. In such circumstances, in the considered opinion of this Court, no purpose would be served by detaining the petitioner in custody. Accordingly, the petition is allowed and the order dated 30.08.2024, whereby he was extended interim bail is made absolute, subject to the compliance of the following conditions by the petitioner:-*

(i) the petitioner shall cooperate with the investigation and shall



appear before the Investigating officer/arresting officer as and when required.

(ii) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.

(iii) he shall not commit any similar offence while on bail.

7. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]  
JUDGE

13<sup>th</sup> November, 2024  
Parveen Sharma

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