

**CRM-M-43453-2024 (O&M)**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-43453-2024 (O&M)****Date of Decision : 24.09.2024**

Munish Aggi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Shubreet Kaur, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

Mr. Vishal Aggarwal, Advocate
for the complainant

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.0085 dated 05.06.2024, under Sections 406, 420, 120-B IPC registered at Police Station Division 5, Police Commissionerate Ludhiana, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. Succinct factual narrative relevant for the disposal of the instant petition is that the aforementioned FIR was registered on the basis of a complaint dated 12.08.2023 submitted by the complainant namely Rishav Sharma against one Archit Arora as also the petitioner. During inquiry, Archit Arora was declared innocent despite direct allegations against him. As per the allegations levelled in the FIR, the complainant had met Archit Arora when the complainant went to explain his insurance plan. Archit Arora told the complainant about a scheme in

which he would get double the invested amount in 10 months. Archit Arora is

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stated to have shown some documents to the complainant in this regard. It is further stated that Archit Arora called the petitioner. It is further alleged that the complainant handed over Rs. 8-10 lacs to the said accused. Further, the complainant alleged that his brother in law (who is not named) handed over Rs. 10 lacs in Jammu for the said investment. The complainant alleged that his relatives invested about Rs. 1.50 to 2 crores in the said scheme.

3. Learned counsel for the petitioner *inter alia* submits that the main allegation against the petitioner is that he asked the complainant for Endeavor Car, which was in the name of Simranjit Kaur wife of the complainant, to attend his relative's wedding for 2-3 days. However, the said car was not returned. He further submits that the petitioner had, in fact, purchased the said car from the complainant. In this regard a sum of Rs. 9 lac was transferred to the complainant by the petitioner. WhatsApp chat dated 12.05.2023 depicts that the complainant received Rs. 9 lacs from the petitioner. He further submits that the petitioner messaged the complainant that total car payment was nil meaning thereby that the entire payment had been made and that there was nothing due. The complainant messaged 'all ok' to the petitioner. Learned counsel further submits that the petitioner had on various occasions requested the complainant to transfer the said car in his name. However, later it came to light that the said car could not be transferred since there was a loan against the same. He further submits that it is wholly unimaginable that huge amounts that too in cash can be invested without any document or contract between the parties. The complainant has failed to mention the source of Rs. 8-10 lac allegedly paid by him to the accused. Besides, neither the date nor the place or even the specific amount of such entrustment has been mentioned in the FIR. While the complainant mentioned a vague sum of Rs.

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dated 12.08.2023, an imaginary sum of Rs. 3.20 crore has been stated in the FIR. Certain other persons are said to have paid huge amounts to the petitioner. However, neither the addresses nor the source of money allegedly paid by the said individuals has been disclosed.

4. Per contra, learned State counsel while relying upon status report has stated that preliminary enquiry on the application of the complainant was conducted by the Incharge, E.O. Wing, Ludhiana during which various persons/victims i.e. Rishav Sharma (complainant), Hemant Kapil, Kuldeep Singh, Sunny, Himanshu, Gurmail Singh, Satish Kumar, Atish Rana, Sukhwinderpal Singh, Subham Sharma, Amit Singla, Sidharth Maini, Ramanpal Singh, Ranjit Singh, Satnam Singh, Tarsem Gupta, Puneet Mahavar, Ramandeep Singh and Kunan Singh were joined in the enquiry and their statements were recorded. Relevant record was compiled and checked. Ultimately, it was revealed that in connection with his business of Banking, the complainant had met the present petitioner and his wife Kanika through one Archit Arora. Then the petitioner and his wife called the complainant at Grewal Hotel, Ludhiana and allured that they have one Company namely Tron T.R.x.World and that if the complainant would invest in this company, then this company would give maximum benefits to the complainant. By showing plans of this company to the complainant, the petitioner and his wife won the trust of the complainant and the complainant paid Rs.20.00 Lac to the petitioner and his wife. The petitioner and his wife also instigated the complainant to get joined the said company from other persons and believing the petitioner and his wife, the complainant also got invested the money of the following persons in the petitioner's company:-



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Sr. No.	Name	Amount
1.	Harmandeep Singh	Rs.25,00,000/-
2.	Ashwani Sharma	Rs.15,00,000/-
3.	Raj Kumar	Rs. 18,00,000/-
4.	Dheeraj	Rs.08,00,000/-
5.	Himanshu	Rs. 11,00,000/-
6.	Naginder Singh	Rs. 11,00,000/-
7.	Amit Singla	Rs.07,00,000/-
8.	Satnam Singh	Rs.06,00,000/-
9.	Ranjit Singh	Rs.06,00,000/-
10.	Munish Dhawan	Rs.20,00,000/-
11.	Sidharth Maini	Rs. 11,00,000/-
12.	Bhupinder Singh	Rs.05,50,000/-
13.	Tarsem Gupta	Rs.09,00,000/-
14.	Sukhpal Singh	Rs.11,00,000/-
15.	Hemant Kapil	Rs. 15,00,000/-
16.	Sunny and Azad	Rs.09,00,000/-
17.	Anshul Sharma	Rs.01,50,000/-
18.	Subhash Chand	Rs.09,00,000/-
19.	Kunan Singh	Rs.06,00,000/-
20.	Narinder Singh and Sukhwinder Singh	Rs.15,00,000/-
21.	Abhin Bajwa	Rs.11,50,000/-
22.	Mandeep Singh Chhabra	Rs.11,00,000/-
23.	Gautam Mehndiratta	Rs.04,50,000/-
24.	Shubam Sharma	Rs.01,50,000/-
25.	Saimal Sharma	Rs.01,50,000/-
26.	Atish Rana	Rs. 16,00,000/-
27.	Kuldeep Singh (NRI)	Rs.35,00,000/-
28.	Rishav Sharma (complainant)	Rs.20,00,000/-
	TOTAL	Rs.3,20,00,000/-

5. While getting invested the said money from the complainant, the petitioner, used to assure the complainant on Whatsapp chat that his company will give maximum returns of the said investments to the said persons. However, after getting invested the above noted amount of Rs.3.20 crores from the complainant

and others, the petitioner removed the Website of his company. In this way the

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petitioner and his wife have committed a fraud of Rs.3.20 crores with the complainant and others by 482 7-09-2024 getting invested the same in their company by alluring to make their money double.

6. Apart from the above, the petitioner had also obtained an Endeavour Car No. PB-19N-0010 of the complainant's wife for his personal use but the same has also not been returned by the petitioner. Thus it was revealed that commission of offence punishable under Sections 406, 420, 120-B IPC is made out against the petitioner and his wife.

7. The above noted enquiry report of the Incharge, E.O. Wing, Ludhiana was further examined and verified by the ACP-E.O. Wing and thereafter by the ADCP-HQ and thereafter by the DCP-Investigation, Ludhiana and the same was finally approved by the Commissioner of Police, Ludhiana. Accordingly FIR No.85 dated 05.06.2024, u/s 406, 420, 120-B IPC, Police Station Division No.5, Ludhiana (Annexure P-1) was registered against the petitioner and his wife Kanika Aggi.

8. During the investigation, the complainant produced photographs of the petitioner and his wife with the aforesaid Investors. The petitioner and his wife had also made a Whatsapp Group with their Investors on social media which was named as "PILLARS OF TRON TRX". Various chats of the petitioner on Whatsapp with various Investors had taken place and the same has been taken into possession by the police. Relevant bank record and record of online payments made to the petitioner by the Investors, has also been taken into possession by the police. Thus, it was argued that the petitioner has committed the fraud of the above noted Investors by alluring them to make their money double and the petitioner has also not returned the above said Endeavour Car of the complainant's

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entitled for the concession of anticipatory bail which is an extra ordinary relief and the same is granted only in exceptional cases.

9. It has further been contended that the petitioner is a habitual offender and apart from the present FIR, another FIR No.655 dated 07.09.2023, under Sections 506, 504, 406 Police Station Shahpur, Gorakhpur (UP) has also been registered against the petitioner. The investigation is still pending and in view of the gravity of the offence, to seize the documents and to recover the defrauded amount from the petitioner, his custodial interrogation is very much required by the police. Moreover custodial interrogation of the petitioner is qualitatively more elicitation oriented than questioning the petitioner on anticipatory bail.

10. Heard the rival submissions made by learned counsel for the parties and perused the record.

11. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra***¹, (2011) **1 SCC 694**, Hon'ble Supreme Court considered the principles established by the Constitution Bench in ***Gurbaksh Singh Sibbia v. State of Punjab*** (1980) **2 SCC 565** case. After a thorough deliberation, the Court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;



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(iv) *The possibility of the accused's likelihood to repeat similar or other offences;*

(v) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*

(vi) *Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.*

12. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

13. In ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty.

14. In ***P. Chidambaram Vs. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the prearrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to



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be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

15. There are serious allegations leveled against the petitioner. The gravity of the offence involving deliberate and calculative misappropriation of funds and also impact public trust. To unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

16. The petition is dismissed.

17. Pending application(s), if any, stand disposed of.

24.09.2024

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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No