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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.45279 of 2024
Date of decision: 28.11.2024

Bhola Singh ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Munish Garg, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Mr. Arshdeep Singh Brar, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
25	27.02.2024	Badhni Kalan, District Moga	420, 465, 467, 468, 471, 506 and 120-B of IPC

2. The aforementioned FIR was initially registered against the co-accused on the basis of complaint lodged by the complainant

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Harbhagwan Singh, on the allegations that the petitioner and the co-accused by hatching a conspiracy and by conniving with each other, had extracted an amount of Rs.20 lakhs from him on the pretext of arranging settlement/closure of loan ending limit account with State Bank of India, Branch Jagraon which the complainant had availed. The accused Jagwant Singh and Nirmal Singh had handed over a forged and fabricated clearance certificate to the complainant representing that his loan account stood cleared whereas infact it was not so. Out of amount of Rs.20 lakhs, an amount of Rs.6,40,000/- had been got deposited in the bank account of the petitioner, as on 26.06.2020. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the present petitioner had moved an application for grant of pre arrest bail which has been dismissed by the Court of learned Additional Sessions Judge, Moga vide order dated 29.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Infact it was the accused Harbant Singh brother-in-law of the petitioner, who has committed the subject offences. The petitioner had no part to play in the same. He had never met the complainant nor enticed him to part with any money. There is delay of more than 3 years and 9 months in lodging of the FIR. The petitioner had not been named in the complaint. The amount of Rs.6,40,000/- deposited in his account had been withdrawn in cash by the co-accused Harbant Singh. The ingredients for commission of offences of

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cheating and forgery are not been attracted as against the present petitioner. He is ready to join the investigation. His custodial interrogation is not required. No recovery is to be effected from him. No purpose would be served by detaining him in custody. Therefore, it is urged that he deserves to be extended benefit of pre arrest bail.

4. Status report has been filed by the respondent-State. It is vehemently argued by learned Assistant Advocate General, Punjab assisted by learned counsel for the complainant that the allegations against the petitioner are equally serious as against the co-accused. The investigation is going on. The investigation has revealed that the petitioner had fully participated in the act of defrauding/cheating the complainant. For unfolding the complete story, design and the manner in which the things were planned and executed, custodial interrogation of the petitioner is must. There are chances of petitioner's misusing the concession of bail if granted to him or tampering with evidence or even influencing the witnesses. No extraordinary and sparing circumstance has been made out. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The petitioner is alleged to have hatched a conspiracy with the co-accused and in pursuance thereof, the co-accused Harbant Singh induced the complainant to part with a sum of Rs.20 lakhs on the pretext

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of arranging settlement/closure of his loan with State Bank of India, Jagraon Branch. After extracting this money, the co-accused Nirmal Singh and Jagwant Singh are even alleged to have given a clearance certificate to him which was found to be forged. Though the petitioner had not been named in the FIR but it has come on record that an amount of Rs.6,40,000/- had been deposited in his bank account by the complainant on the asking of the co-accused Harbant Singh. The petitioner has placed on record a copy of statement of the bank account which shows deposit of the aforementioned amount of money on 26.06.2020. Though on the same day, an amount of Rs.6 lakhs is shown to be withdrawn, however, it does not show that the co-accused Harbant Singh had withdrawn it. The petitioner's counsel could not give any explanation with regard to the remaining amount of Rs.40,000/-. Prima facie a case of hatching conspiracy by the petitioner with the co-accused for inducing the complainant to part with money has been made out. The allegations against the petitioner are serious in nature.

7. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The Court has also to see that an order of anticipatory bail should not operate as inroad in the

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normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

8. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

28.11.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No