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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-52389-2023
Date of Decision:-24.07.2024

AMIT KUMAR

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Raghav Soni, Advocate, for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

Mr. Navraj Singh Mahal, Advocate for the complainant.

SANJIV BERRY, J (ORAL)

Learned counsel for the state has filed reply by way of affidavit dated 12.07.2024 of Deputy Superintendent of Police (City) Moga, the same is taken on record. Copy thereof, has been supplied to the counsel opposite.

2. By way of the present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in FIR detailed as under (Annexure P-1):-

FIR No.	Dated	Sections	Police Station
0204	15.09.2023	420 IPC	City Moga, District Moga

3. Brief facts of the case are that complainant Jagdeep Singh, Assistant Manager, Muthoot Finance Limited, Ferozepur Road, Moga has



filed complaint against petitioner Amit Kumar stating that petitioner had availed gold loan from Muthoot Finance Limited, which he had returned by way of installments. The petitioner had also availed three gold loans from Paul Merchants Finance Limited, GT Road, Moga, but there being higher rate of interest than Muthoot Finance Limited, petitioner told Jagdeep Singh, Assistant Manager, Muthoot Finance Limited for transfer of his gold loans from Paul Merchants Finance Ltd. to Muthoot Finance Limited. Petitioner moved an application for transfer of his gold loans from Paul Merchants Finance Limited to Muthoot Finance Limited. Upon fulfilling the basic requirements, Assistant Manager Jagdeep Singh started the process of transfer of gold loans and on 13.03.2023, an amount of ₹4,90,000/- was transferred to the account of the petitioner with HDFC Bank, but petitioner had not deposited the gold by way of security. On inquiry, by EO wing, it was found that instead of getting the gold ornaments released from Paul Merchants Finance Limited, petitioner spent the amount received from the complainant on his personal needs, as such he had defrauded Muthoot Finance Limited to the tune of ₹4,90,000/-. On these allegations FIR was registered.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner had not committed any crime as alleged by the prosecution but has been falsely implicated in this case arising purely out of the financial transactions which can at the most be taken care of in a civil litigation. He contends that although the petitioner was granted interim bail on an assurance to settle the dispute and the matter was referred to Mediation but



due to circumstances beyond control of the petitioner he could not settle the dispute, as such he prayed for grant of anticipatory bail to the petitioner.

5. *Per contra*, learned State counsel assisted by learned counsel for the complainant has assailed these arguments by referring to the reply dated 12.07.2024 and contends that petitioner had not deposited gold ornaments in the form of security against the loan amount transferred by Muthoot Finance Ltd. and also used the loan amount so received by petitioner for his personal purpose. They contend that petitioner had misappropriated the said loan amount, as such his custodial interrogation is required to recover the loan amount. They contend that the petitioner was granted concession of interim bail on his assurance given in the Court that the matter may be referred to the Mediation and Conciliation Center as he intends to settle the dispute and pay the amount. The petitioner did not comply with the directions to join the investigation. As such, they prayed for dismissal of the present petition.

6. After considering the rival contentions and perusing the record, it transpires that during course of proceedings in the present case on the insistence of learned counsel for the petitioner showing the intention to settle the dispute, the matter was referred to Mediation and Conciliation Centre of this Court while granting concession of interim bail to the petitioner vide order dated 06.11.2023 which reads as under:-

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Learned counsel for the petitioner submitted that it is a case of a financial dispute between the parties and the petitioner is ready to settle and return the amount in convenient installments.

Notice of motion.

Mr. Ramdeep Partap Singh, Senior DAG, Punjab accepts notice



on behalf of the State of Punjab.

Mr. Navraj Singh Mahal, Advocate has appeared on behalf of respondent No.2 and has filed his power of attorney which is taken on record. He states that in case the petitioner pays back the money to the complainant, he has no objection, in case the petitioner is granted interim bail.

Learned counsel for the parties have further requested this Court that in case the matter is sent to the Mediation and Conciliation Centre of this Court, then probably the matter can be settled between the parties.

In view of the above, the parties are directed to appear before the Mediation and Conciliation Centre of this Court on 24.11.2023.

Adjourned to 12.03.2024.

In the meantime, the petitioner is directed to join the investigation and to co-operate fully with the investigation process and on his doing so, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting /Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

7. Consequently on 12.07.2024 interim bail granted to the petitioner vide order dated 06.11.2023 has been cancelled, the relevant part of the order dated 12.07.2024 is as under:-

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Thereafter on 12.03.2024 the following order was passed:-

Learned counsel for respondent No.2 submits that while passing the order dated 06.11.2023, this Court had granted interim protection to the petitioner and the matter was referred to the Mediation and Conciliation Centre of this Court, but the petitioner never appeared before the Mediation Centre.

Learned counsel for the petitioner prays for last opportunity to seek instructions and address arguments.

List on 19.03.2024.

Interim order to continue only till the next date of hearing.”

Thereafter on 19.03.2024 the following order was passed:-



1. *Report from Mediation Centre received.*
2. *At the very outset, both learned counsel for the petitioner as well as respondent No.2 are ad idem that the matter may be referred to the Mediation Centre as due to some miscommunication, the settlement could not be effected.*
3. *On joint request and in the interest of justice, matter is referred again to the Mediation and Conciliation Centre of this Court for 03.04.2024.*
4. *To await report of the Mediator, adjourned to 29.04.2024.*
5. *Interim order to continue till the next date of hearing.”*

Thereafter on 29.04.2024 the following order was passed:-

Learned counsel for the petitioner prays for some time for seeking instructions from the petitioner and also for producing the complete copy of FIR.

2. *Adjourned to 14.05.2024.*
3. *Interim order to continue till the next date of hearing.”*

Thereafter on 14.5.2024 the following order was passed:-

Learned Counsel for the petitioner submits that the petitioner is ready to pay the principal amount of Rs.5 Lakhs by way of draft on the adjourned date to the complainant and will settle the interest component.

2. *Learned Counsel appearing on behalf of the complainant has no objection to the proposal.*
3. *In these circumstances, case is adjourned to 24.5.2024 for compliance.*
4. *Interim order to continue till the next date of hearing.*
5. *To be taken up immediately after urgent list.”*

Thereafter on 24.5.2024 the following order was passed:-

Learned State counsel seeks time to file reply/status report.

2. *Adjourned to 12.07.2024.*
3. *Let the reply be filed well before the next date of hearing with an advance copy to the counsel opposite.*
4. *Interim order to continue till the next date of hearing.”*

Despite the aforementioned orders the petitioner has refused to return the money.

In view of the above, the interim order dated 6.11.2023 stands vacated.

List on 24.07.2024 for arguments.”

8. It is evident from the perusal of the aforesaid orders and also from the respective contentions raised by the learned counsels for the parties that the petitioner has not complied with the directions of the Court after being granted concession of interim bail. In fact, matter was referred to Mediation and Conciliation Center of this Court at the insistence of learned counsel for the petitioner but despite that, the petitioner has not settled the dispute and no justification is given by learned counsel for the petitioner as to what prevented the petitioner from joining the investigation, despite repeated orders passed by this Court. This fact, coupled with the fact that recovery of loan amount is yet to be effected from the petitioner, for which custodial interrogation of the petitioner is required. Therefore, without commenting on the merits of the case, it is observed that petitioner is not entitled to the relief of anticipatory bail. Therefore, finding no merit in the petition, the same is hereby dismissed.

9. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

24.07.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |