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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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Date of decision: 15th October, 2024

Gurwinder Singh Gill @ Gurvinder Singh @ Soni Gill

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Gopal Singh Nahel, Advocate for the petitioner.

Mr. Akshay Kumar, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

1. The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in case bearing FIR No. 65 dated 19.06.2023 registered under Sections 420 and 406 of IPC, 1860 at Police Station Mehatpur, District Jalandhar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was lodged on the basis of a written complaint filed by the complainant Manish Kumar Sood alleging therein that he was engaged in the business of sale and purchase of old vehicles under the name and Style of 'Sood Motors' at Mehatpur. The accused Varinder Gill who was in business relations with the complainant

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introduced him with the present petitioner, Jaswinder Singh Gill and Hardeep Singh in the month of October, 2021. The petitioner Gurvinder Singh who was running business under the name and style of 'Foreigners Travellers Taxi service' at New Delhi, induced the complainant to enter into a partnership business for purchase of 1453 old vehicles belonging to 'Mahindra First Choice Wheels Private Limited Company, Gurgaon' (for short 'Mahindra Company') by investing a sum of Rs. 50,00,000/-. On being allured by the petitioner-Gurvinder Singh Gill, on the pretext that their partnership would be fetching huge profits, the complainant invested the aforementioned amount with the aforementioned company. The said company accepted bulk deal of sale of 561 vehicles in the name of the petitioner. However, after getting investment of sum of Rs. 50,00,000/- from the complainant, the petitioner played fraud upon him and by getting the deal reduced to 400 vehicles with the above named company, he usurped an amount of Rs. 50,00,000/- deposited by the complainant by using the same as security deposit with Mahindra Company, he converted the same into his own use. When the complainant came to know about this fact, he asked for refund of the aforementioned amount but the petitioner returned only a sum of Rs. 11,50,000/- thereby duping the complainant of an amount of Rs. 38,50,000/-. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail, which has been dismissed by the Court of learned Additional Sessions Judge, Jalandhar vide order dated 06.10.2023.



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3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He has been running business of sale and purchase of cars from the last ten years at Delhi and is an income tax assessee. The complainant did not deposit any money in the account of the petitioner nor any amount of money was paid by him to the petitioner rather as per his own admission, the amount of Rs. 50,00,000/- had been deposited in the account of Mahindra Company. Even the petitioner along with Hardeep Singh had deposited an amount of Rs. 22,50,000/- with Mahindra Company. The petitioner had never induced the complainant to deposit any money with Mahindra First Choice Company. The ingredients for commission of offence of cheating and criminal breach of trust have not been at all attracted, as against him. At the most, it can be stated to be a business deal between the petitioner and himself. A suit for recovery of money can be filed by the complainant since the dispute between them is of civil nature, which has been given the cloak of criminal nature. A false case has been foisted upon him. He is ready to join the investigation. His custodial interrogation is not required. Therefore, it is urged that he deserves to be extended benefit of bail. To fortify his arguments, learned counsel for the petitioner has relied upon authorities cited as '***A.M. Mohan Vs. The State represented by SHO and another, 2024 (2) RCR (Criminal) 380***' wherein it was held that dishonest inducement is the sine qua non to attract the provisions of Section 415 and 420 of IPC, in case, where the complainant persists with a prosecution for civil dispute, the criminal proceedings should not be initiated.



4. Learned counsel has also relied upon order dated 22.07.2024 passed by Hon'ble Supreme Court in ***Criminal Appeal No. 3020 of 2024*** titled as '***Radhey Shyam and others Vs. State of Rajasthan and another, 2024 SCC Online SC 2311***', wherein it was observed that a commercial transaction taking place between the parties cannot be considered to be a case of criminal nature only on account of default in payment, since the complainant has right to resort to the remedies under civil law.

5. *Per contra*, learned State counsel who has advance notice of the petition and is ready to argue the matter, has submitted that there are serious and specific allegations against the petitioner as he induced the complainant to invest a sum of Rs. 50,00,000/- with Mahindra Company by entering into a partnership with him and by representing to him that he would be fetching huge profit along with him as well by taking wrongful gain from the investment for a sum of Rs. 50,00,000/- as made by the complainant with the said company. As per the allegations, the petitioner had done so with dishonest intention since the very beginning. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

7. It has been brought to the notice of this Court that no written partnership deed had been executed by the petitioner in favour of the complainant before striking a deal with Mahindra First Choice Company and



before inducing him to invest huge amount of money in the same. The refund of an amount of money Rs. 11,50,000/- out of a sum of Rs. 50,00,000/- by the petitioner shows that the amount of Rs. 50,00,000/- had been invested by the complainant on his asking. The allegations levelled against the petitioner are serious in nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. 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 the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

15th October, 2024
Parveen Sharma

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