

283 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-57013-2023 (O&M)

Date of Decision: 24.01.2023

QAYAMUDDIN

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Srivastava, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Through the instant petition, the petitioner is seeking anticipatory bail in case FIR No. 394 dated 03.09.2023 registered under Sections 379, 420, 34 and 120-B of Indian Penal Code at DLF Sector 29 Police Station, Gurugram.

2. On 17.11.2023, following order was passed:

“Learned counsel for the petitioner inter alia contends that the FIR in question was lodged on the allegation that Rs. 35 lacs in cash which was in possession of the complainant at the time of alleged occurrence has been taken by deceiving the complainant by Narender Rathore. The aforesaid amount was arranged by the complainant for the purpose of purchasing gold from M/s Senco Gold as the complainant intended to purchase this gold from co-accused Saleem and Narender Rathore. Learned counsel for the petitioner further submits that there is a delay of four days in informing the police and the same has not been explained by the complainant. No source of Rs. 35 lacs in cash was disclosed by the complainant.

The petitioner is neither named in the FIR nor any role is attributed to him, rather he has been falsely implicated. The offences in which the present FIR is lodged, the maximum punishment provided is upto seven years.

Per contra learned State counsel has filed the status report and opposes the grant of anticipatory bail on the ground that the petitioner is involved in the present case on the basis of disclosure statement made by Saleem as the amount in question is yet to be recovered and he is involved in one another FIR No. 80 of 2018 registered under Sections 419, 420, 120-B IPC at Police Station Connuaghi Place, Delhi. The trial of the said case is going on and the petitioner is on bail.

Adjourned to 08.12.2023.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) 2023 SCC OnLine SC 352**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 28.11.2023 and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.”

3. Learned State counsel on instructions from SI Anil Kumar submits that in compliance of order dated 17.11.2023 passed by this Court, the petitioner has joined the investigation.
4. In view of the above, the order dated 17.11.2023, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) of Cr.P.C.
5. The petition is accordingly allowed.

24.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No