IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

293 **CRM-M-56013-2024**
Date of decision: 20th November, 2024

Amit Sharma @ Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Saurabh Sharma, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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MANISHA BATRA, J (ORAL):-

The present petition has been filed 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
221	22.07.2024	Parao, District Ambala	406, 420 and 120-B of IPC, 1860

2. Adumbrated facts as emanating from the record are that the aforementioned FIR was registered on the basis of a complaint lodged by the complainant Rajinder Kumar Tyagi alleging that he was interested to sell his house situated at Ambala Cantt and had talked to his acquaintance Lucky in this regard. The said Lucky introduced him with the petitioner, who is a

property dealer. Both Lucky and the present petitioner visited the house of the complainant several times. The petitioner told the complainant that 69 square yard area of his house had not been released by Haryana Urban Development Authority (for short 'HUDA') and No Due Certificate (for short 'NDC') was to be obtained from HUDA qua that much area of land. He represented to the complainant that he would get this work done by spending money and on asking of the petitioner and Lucky, the complainant gave a sum of Rs. 40,000/- to them. Subsequently, they took amounts of Rs. 20,000/-, 60,000/- and 80,000/- respectively from the complainant for the same purpose.

3. As further alleged by the complainant, on 29.03.2023, the wife of the petitioner visited the house of the complainant and while saying that her husband had met with an accident and she needed a sum of Rs. 70,000/- for his treatment, she took the said amount from him. Thereafter, the complainant received calls from the phone of the petitioner and the caller while introducing him as I.G., started extorting money from him by saying that it appeared that it was the complainant who had caused the accident of Amit, as papers related to his property were found in the car of the petitioner. The complainant was made to transfer money in the bank account of the petitioner on different dates. In this manner, he was made to part with a sum of Rs. 40,00,000/- during the period from 29.03.2023 till 13.06.2023. The complainant further alleged that on 29.07.2023, he received a call from the phone of the petitioner intimating that the latter had expired and raising demand of Rs. 1,00,000/- to hush up the case. Feeling scared, the

complainant transferred an amount of Rs. 1,00,000/- from the bank account of his brother. He was again made to transfer more amount of money and in this manner, a total sum of Rs. 50,00,000/- had been taken from him. Subsequently, he came to know that he had been cheated and defrauded by the petitioner and the co-accused. As such, he prayed for taking action. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, present petitioner moved an application for grant of pre-arrest bail before the learned Additional Sessions Judge, Ambala, which was dismissed vide order dated 23.10.2024.

4. It is argued by learned counsel for the petitioner that the allegations in the FIR are totally incomprehensible, improbable and unnatural and do not make out any case as against the petitioner. The complainant has taken two different versions. One of the story narrated by him is to the effect that huge amount of money was extracted from him on the pretext that the petitioner had met with an accident and was in critical condition and subsequently, that he had died. It is argued that no normal person would have transferred money in the bank account of a person who is alleged to have been met with an accident simply on receiving phone calls without verifying the truthfulness of the information so received.

5. It is further argued that as per own version of the complainant, 38 transactions of different amounts of money had been got made from him on the pretext that the petitioner had met with an accident and by threatening that the complainant was going to be implicated for causing the same and money was extorted from him. It is argued that infact the petitioner is

involved in the business of property dealing. The complainant is a financer. Transaction of money used to take place between them as per business transaction. The FIR has been lodged as a nefarious attempt by the complainant to avoid making payment of the money due towards him. Custodial interrogation of the petitioner is not required. He is ready to join the investigation. The Court is not expected to act as an agent for recovery of money from the petitioner. Therefore, it is argued that the petition deserves to be allowed.

6. Status report has been filed by respondent-State. It is argued by learned State counsel that there are serious and specific allegations against the petitioner as he duped the complainant of an amount of Rs. 50,00,000/- out of which an amount of Rs. 40,00,000/- was transferred to his bank account by the complainant through different transactions. He also usurped money from the complainant for getting NDC of the property owned by him from HUDA. The allegations against the petitioner are serious in nature. His custodial interrogation is required for conducting thorough investigation of the matter by the police. Even otherwise, no extra ordinary or sparing circumstance has been made out for the purpose of extending benefit of bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

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

8. The petitioner is alleged to have cheated the complainant by

extracting money from him initially on the pretext of getting NDC from HUDA issued in his favour. He is further alleged to have extracted an amount of Rs. 40,00,000/- by way of transfer of the same through different transactions in his own bank account over a period of 3-4 months. Though, the allegations that he had been receiving calls from the phone of the petitioner and the caller while introducing him as some I.G., had been extorting money from the complainant, do not appear to be probable and natural, however, at the same time, the fact that there were different transactions regarding transfer of money from the complainant in the bank account of the petitioner has not been denied by the latter and he has also not been able to give any satisfactory explanation with regard to those transactions. The case is still at its nascent stage. For eliciting the truth about the manner in which the transaction of a huge amount of money has taken place and for conducting thorough and proper investigation of the matter by the police, custodial interrogation of the petitioner is must. It is well settled proposition of law that while deciding an application for grant of anticipatory bail, the nature and gravity of the accusation, the part played by the accused, the possibility of his fleeing from justice or likelihood to repeat similar offence or other offences as well as the apprehension of the accused tampering with the evidence or extending threat to the complainant must be considered. The allegations against the petitioner are specific and serious in nature. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. Moreso, no exception or extra ordinary circumstance warranting exercise of powers for grant of pre-arrest bail is made out in this case. Keeping in view the nature of the subject offences and the role attributed to the petitioner and for the purpose of eliciting the truth, I am of the considered opinion that the custodial interrogation of the petitioner is certainly required. As such, no ground has been made out for extending benefit of bail. Accordingly, the petition stands dismissed.

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

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

[MANISHA BATRA]
JUDGE

20th November, 2024
Parveen Sharma

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