



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

299

CRM-M-61225-2023 (O&M)

Date of decision: 24.07.2024

Gopal Mittal

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajiv Malhotra, Advocate,
for the petitioner.

Mr.Yuvraj Shandilya, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.209 dated 28.07.2023 under Sections 406 and 420 of the Indian Penal Code, 1860, registered at Police Station Siwani, District Bhiwani.

2. On 10.01.2024, while noticing the following submissions made by the learned counsel for the petitioner, a Coordinate Bench of this Court, had granted the concession of interim bail to the petitioner and asked him to join investigation:-

“Learned counsel for the petitioner has opened his arguments by submitting that a purely commercial and civil dispute has been given a criminal colour. Even otherwise, a perusal of the FIR demonstrates that the complainant had some business dealings with the firm of petitioner's brother and he has no control or connection with the same. He further submits that, in fact, 01 more FIR was lodged and in FIR No.208 dated 28.07.2023, the petitioner was granted the concession of interim bail subject to surrender of his Passport within 03 days, however, since the petitioner was not granted any concession in the present FIR, he could not join the proceedings and had sought extension of time in the earlier



order passed. He further submits that vide order dated 09.01.2024 passed in CRM-52582 and 52588 of 2023 in CRM-M-60660-2023, a Coordinate Bench of this Court has extended the period for 07 days to enable the petitioner to deposit his Passport.”

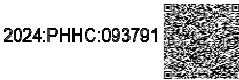
3. Learned counsel for the petitioner submits that in compliance of order dated 10.01.2024, the petitioner has joined investigation and cooperated with the investigating agency.

4. Learned counsel for the State has on instructions conceded that no doubt there were two firms, one each in the name of the mother of the petitioner and another one in the name of brother i.e. co-accused Nitin Mittal, however, in the present case, there were no direct money transactions between the complainant and the petitioner; nonetheless it was the petitioner who had been coordinating the business on behalf of both the firms as there were more than 864 calls with effect from 01.07.2020 to 03.07.2023. On a pointed query as to whether there had been compliance of order dated 10.01.2024, vide which the petitioner was directed to join the investigation in the following terms:-

“In the light of the above, the petitioner is directed to join investigation within one week from today before the Investigating Officer and cooperate with the Investigating Agency, even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Since there is already a direction to the petitioner to surrender his Passport vide order dated 09.01.2024 passed in CRM-M-60600-2023, no other conditions needs to be imposed qua the same at this stage. However, the petitioner shall report to the concerned Investigating Officer once in every 15 days till the next date of hearing.”



5. Learned State counsel, on instructions, has not disputed that the petitioner has joined the investigation. However, it has been contended that recovery of the amount due towards the complainant had yet not been effected from the petitioner.

6. Once an accused has joined the investigation and cooperated with the investigating agency, the denial of anticipatory bail solely on the basis of recovery of money allegedly due towards the complainant is unfounded. The Hon’ble Supreme Court has time and again indicated through its various pronouncements that Courts while deciding petitions for anticipatory bails should not act as recovery agents.

7. In view of the above, the petition is allowed and interim order dated 10.01.2024, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

(MANJARI NEHRU KAUL)
JUDGE

July 24, 2024
poonam

Whether speaking/reasoned:	Yes
Whether reportable:	No