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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-57262-2024

Date of Decision : 18.11.2024

SURENDER SINGH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sunny Tyagi, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J.(Oral)

Apprehending arrest in FIR No.97 dated 30.01.2018 under Sections 408, 420 and 120-B of IPC registered at Police Station Model Town, District Panipat, the petitioner has preferred this second petition under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. In brief, the above stated FIR was lodged on the basis of complaint by the complainant, Anoop Mishra, alleging financial irregularities committed by the officials of a company involved in financial services, with its head office in Lucknow and a branch in Panipat. The complainant claimed that the applicant, along with four others, embezzled and misappropriated Rs. 4,67,61,691/- by colluding with each other, committing fraud and misrepresentation. Legal action was sought against the accused persons, including the applicant.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. It is contended that there is no evidence to



connect the petitioner with the alleged crime, and the complainant's account is false. He also submits that petitioner has clean antecedents. Furthermore, a co-accused, Ravi Kaushik and Deepak Kumar, were granted bail by learned Sessions Judge vide orders dated 27.7.2018 and 08.08.2024 respectively.

4. Per contra, learned State counsel has vehemently opposed the petition and submits that the first anticipatory bail petition filed by the petitioner was dismissed on 15.10.2018 by a Co-ordinate Bench of this Court and the petitioner should have surrendered and filed regular bail petition, however he has been evading arrest since then.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra***¹, (2011) **1 SCC 694**, Hon'ble Supreme Court considered the principles established by the Constitution Bench in ***Gurbaksh Singh Sibbia v. State of Punjab*** (1980) **2 SCC 565** case. After a thorough deliberation, the Court arrived at the following conclusion:

"112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;



(vi) *Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people.*

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, Courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

8. In ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty.

9. In ***P. Chidambaram Vs. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the prearrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”



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10. Vide order dated 15.10.2018, this Court dismissed the first anticipatory bail petition filed by the petitioner on the ground that there are serious allegations leveled against the petitioner and he is evading arrest since 2018. Still there is no change in the circumstances, accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

11. The petition is dismissed.

12. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

18.11.2024
Kavita

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No