

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

CRM-M-62031-2023

Reserved on: 20.02.2024

Pronounced on: 22.02.2024

2024:PHHC: 025234

UNION TERRITORY OF CHANDIGARH

. . . . PETITIONER

Vs.

ANUPAM GUPTA

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Charanjit Singh Bakshi, Addl. Public Prosecutor
for Union Territory, Chandigarh.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439(2) CrPC, petitioner-Union Territory of Chandigarh through its Deputy Superintendent of Police, Economic Offences Wing, UT Chandigarh seeks cancellation of anticipatory bail granted to the respondent vide order dated 19.08.2021 (Annexure P3) in FIR No.116 dated 24.07.2021 (Annexure P1) under Sections 420, 201 & 120B IPC registered at Police Station 34, Chandigarh.

2.1 FIR in question (Annexure P1) was registered against respondent and others regarding defrauding the complainant to the tune of ₹47,57,457/- on the pretext of allotment of a showroom in the project floated by the respondent-co-accused. Vide an order dated 10.08.2021 (Annexure P2), Id. Additional Sessions Judge, Chandigarh granted interim anticipatory bail to the respondent subject to the condition that he shall join the investigation and cooperate in it.

2.2 After getting report from the concerned public prosecutor that petitioner had joined the investigation and that he is not a Director of the

Company and other Directors of the said company have effected compromise with the complainant, the order dated 10.08.2021 was made absolute by Id. ASJ, Chandigarh vide order dated 19.08.2021.

3. Ld. counsel for the petitioner contends that order dated 19.08.2021 (Annexure P3) was subject to the condition that petitioner shall cause his appearance before the Investigating Officer as and when called by him and shall further abide by all the other conditions of bail as mentioned in Section 438(2) CrPC. Though respondent had initially joined the investigation in compliance of the order dated 10.08.2021 and on that basis, the order was made absolute, but later on respondent was called on several dates for joining the investigation, but he did not cooperate. IO made efforts to contact the respondent on his mobile numbers to join the investigation, but the mobile number was found switched off.

4. It is further submitted by Id. State counsel that respondent is a habitual offender and as many as 19 FIRs have been registered against him as per para No.8 of the petition and that in 17 cases, the anticipatory bail applied by the respondent, has been declined by this Court vide order dated 01.06.2023. Petitioner further submits that the respondent has already been declared as proclaimed offender in 10 FIR's as per Annexure P5. After referring to Section 438 CrPC and that respondent is not cooperating in the investigation, prayer is made for cancellation of the bail granted to him.

5. Notice of the petitioner was issued to the respondent. He was duly served through his father, which was held to be a valid service in the eyes of law. However, no representation was made on behalf of the respondent.

6. As will be evident from the order dated 19.08.2021 (Annexure P3) passed by Id. ASJ, the interim anticipatory bail earlier granted to the

petitioner on 10.08.2021 was made absolute subject to the specific condition that he shall comply with the provisions of Section 438(2) CrPC.

7. One of the conditions mentioned in Section 438(2) CrPC is that the person concerned shall make himself available for interrogation by the police officer as and when required. In the order dated 19.08.2021, it was specifically mentioned to comply with the provisions of Section 438(2) CrPC. But later, after the order dated 19.08.2021, whereby the interim anticipatory bail earlier granted to the petitioner on 10.08.2021 was made absolute, IO made efforts to contact the respondent on his mobile numbers to join the investigation, but the mobile number was found switched off and the respondent failed to turn up so as to join the investigation.

8. In the aforesaid facts and circumstances, the present petition is hereby allowed, after noticing that respondent appears to have willfully made disobedience of the order dated 19.08.2021 and one of the conditions of bail as mentioned in Section 438(2) CrPC. As such, the anticipatory bail granted to the petitioner vide order dated 19.08.2021 (Annexure P3) is hereby canceled.

22.02.2024
Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>No</i>