

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-62324 of 2023
Date of Decision: January 31, 2024

Rakesh Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present : Mr. Kuldeep Singh Siwach, Advocate
for the petitioner

Mr. Subhash Godara, Addl. A.G. Punjab

Harpreet Singh Brar, J. (Oral)

1. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 9 dated 19.01.2023 registered under Section 420 IPC at Police Station Sadar Bathinda, District Bathinda.

2. On 12.12.2023, the following order was passed :-

“The present petition has been filed under Section 438 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) for grant of anticipatory bail to the petitioner in FIR No. 9 dated 19.01.2023 registered under Section 420 IPC at Police Station Sadar Bathinda, District Bathinda.

Learned counsel for the petitioner, inter alia, contends that the petitioner is neither the employee of the POSB B Gold Company nor any inducement is alleged against the petitioner for attracting the offence under Section 420 IPC. The entire case of the prosecution is based on documentary evidence which is already in possession of the investigating agency. The petitioner is involved only on the allegation that a sum of Rs. 2 lacs has been

transferred to his account, otherwise the complainant has not made any allegation against the petitioner.

Notice of motion.

On the asking of the Court, Ms. Navreet K. Barnala, AAG Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

*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; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833**, at the first instance, the petitioner is directed to appear before the Investigating Officer on or before 22.12.2023 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.

Adjourned to 31.01.2024.

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 Head Constable Gurdeep Singh, states that pursuant to order dated 12.12.2023, the petitioner has joined the investigation and is no more required for custodial interrogation.

4. In view of the statement of learned State counsel, order dated 12.12.2023 is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.
5. Petition stands disposed of.
6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

January 31, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No