



CRM-M-58311 of 2024 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-58311 of 2024
Date of Decision: 22.11.2024

Rajesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mikhail Kad, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Manisha Batra, J.(Oral)

1. Though the instant petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita 2023 (for short-‘BNSS’), the petitioner seeks anticipatory bail in case FIR No.228 dated 17.10.2024 under Section 406 of IPC, registered at Police Station City Sangrur, District Sangrur.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered against the petitioner on the complaint lodged by the complainant-Yashpal Jindal alleging therein that he had given gold articles weighing 145 grams to the petitioner, who is a jeweller, on 09.06.2021 for converting the same into new gold ornaments. After melting the gold articles, pure gold was found to be weighing 120 grams. The petitioner had kept the same with him by making promise to give new gold jewellery in lieu thereof to the complainant by 15.07.2021.

However, he did not fulfill his promise and kept on putting off the matter on



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one pretext or the other. Thereafter, he promised to give an amount of Rs.6,12,960/- by 05.09.2022 for the value of the gold but did not pay the same as well. Then he had issued a cheque but the same was dishonoured. After registration of the FIR, investigation is under way. Apprehending his arrest, the petitioner had previously moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Sangrur, which has been dismissed vide order dated 05.11.2024.

3. It is argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case and he is ready to join the investigation. He has never duped the complainant of any money by making any inducement, or by taking his gold articles. No recovery is to be effected from him and his custodial interrogation is not required. No purpose would be served by detaining him in custody and therefore, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has appeared on advance notice of the petition. At this stage, Power of Attorney on behalf of respondent No.2-complainant has also been filed.

6. Learned State counsel as well as counsel for respondent No.2/complainant are ready to argue the matter and have submitted that the petitioner is a habitual offender. He has even been declared proclaimed persons in two cases of similar nature. Two criminal complaints were filed against him and directions for initiating proceedings under Section 174-A of IPC have been issued against him. There are chances of his absconding if extended benefit of anticipatory bail. He has duped the complainant of huge



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investigation of the matter by the police. Even otherwise, no extraordinary and sparing circumstance warranting exercise of powers for grant of anticipatory bail has been made out in this case. A complaint under Section 138 of Negotiable Instruments Act, 1881 *qua* the cheque which was allegedly issued by the petitioner is also pending. It is further argued that that the dispute between the parties is purely of civil nature which has given a criminal colour. With these broad submissions, it is urged that the petitioner does not deserve to be extended the benefit of anticipatory bail.

7. I have heard learned counsel for the parties at length and perused the material placed on record.

8. The petitioner is alleged to have induced the complainant to retain gold articles/gold belonging to him on the pretext of giving new gold jewellery to him and is further alleged to have retained the same with himself and is alleged to have caused wrongful loss to the tune of more than Rs.6 lakhs. Learned counsel for the complainant has placed on record copies of the orders passed in two criminal complaints bearing CIS-NACT-717-2022 and CIS-NACT-448-2022 which shows that the petitioner has been declared a proclaimed person in both of those complaints. This fact has been concealed by learned counsel for the petitioner as there is no averment in the petition to that effect. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. 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 from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to



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present case, no exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is required. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

22.11.2024
D.Bansal

(MANISHA BATRA)
JUDGE

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No