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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1650-2025

Date of decision: 15.02.2025

Kapil

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Bhupinder Singh Bairagi, Advocate
for the complainant.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.410 dated 10.07.2024 under Sections 406/420 of IPC registered at Police Station Barwala, District Hisar (Annexure P-1).

On 15.01.2025, the following order was passed:-

'The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.410 dated 10.07.2024 under Sections 406/420 of IPC registered at Police Station Barwala, District Hisar (Annexure P-1).'

Learned counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case and there has been no banking transaction between the petitioner and the complainant and the petitioner was made to sign the affidavit under coercion. He further submits that there is a delay of one year in the registration of the FIR (supra). Moreover, the maximum sentence provided for the offences under which the FIR (supra) is registered is upto 07 years and no notice under Section 35 of BNSS (earlier Section 41-A of Cr.P.C.) has ever served upon the petitioner. As such, the petitioner is entitled to anticipatory bail in view of the directions



issued by the Hon'ble Supreme Court in **Md. Asfak Alam v. State of Jharkhand and another 2023 (3) R.C.R(Criminal) 754**. It is further contended that there is no possibility of the petitioner fleeing from justice and pre-trial detention would cause irreparable loss, mental agony, embarrassment and humiliation to the petitioner as well his entire family.

Notice of motion.

On the asking of the Court, Ms. Mayuri Lakhanpal Kalia, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

At this stage, Mr. Bhupinder Singh Bairagi, Advocate puts in appearance on behalf of the complainant and files his memorandum of appearance in the Court today which is taken on record. He further opposes the grant of anticipatory bail to the petitioner on the ground that the petitioner has duped the complainant on the pretext of securing visa of United States of America.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in **Arnesh Kumar v. State of Bihar (2014) 8 SCC 273**, **Arnab Manoranjan Goswami v. State of Maharashtra (2021) 2 SCC 427**, **Satender Kumar Antil v. CBI (2022)10 SCC 51**, **Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors. 2010 SCC OnLine SC 1375** and **Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 SCC 565**, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today 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/Arresting Officer and abide by the conditions as provided under Section 482 (2) of BNSS (earlier 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 Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 15.02.2025.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial



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Court shall proceed without being prejudiced by observations of this Court.

Learned State counsel on instructions from SI Anoop Singh, at the very outset informs the Court that the petitioner has joined the investigation but he is not cooperating and the amount in question is yet to be recovered.

In view of the ratio of law laid down by the Hon'ble Supreme Court passed in 'Dilip Singh Vs. State of Madhya Pradesh and another', (2021) 2 SCC 779, the anticipatory bail is primarily for securing the liberty of the accused and it cannot be used in any manner to recover the amount in dispute.

In view of the above, order dated 15.01.2025 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 482(2) of BNSS (earlier Section 438(2) Cr.P.C.).

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

15.02.2025

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No