IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101-1 **CRM-M-27224-2023**

Date of decision: 08.09.2025

Ankur Mittal ....Petitioner

V/s

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. V.K. Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Abhishek Shukla, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

Mr. R.K. Samyal, Advocate for the complainant.

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<u>SUMEET GOEL, J. (Oral)</u>

1. Present petition has been filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.0080 dated 07.02.2023, under Sections 406, 420 and 120-B of IPC (Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 added later on) registered at Police Station Thanesar Sadar, District Kurukshetra.

2. On 02.06.2023, the following order was passed:-

> *"Present petition has been filed under Section 438 of Cr.P.C. praying for grant of anticipatory bail to the petitioner in case bearing FIR No 0080 dated 07.02.2023 registered under Sections 406, 420, 120-B of the Indian Penal Code (Section 3 of Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 added later on) at Police Station Thanesan Sadar. District Kurukshetra.*
>
> *Learned Senior counsel for the petitioner has supplied the statement of accounts of the petitioner showing that the alleged amount of Rs 1,08,00,210/- had been duly transferred to the accounts of some of the complainants. He further contends that petitioner is ready to settle the entire dispute with the complainants and prays for interim protection.*
>
> *Notice of motion.*

Mr. Bhupender Singh, DAG Haryana, who is present in the Court, accepts notice on the asking of the Court and seeks time to file reply/status report and Mr. Rajinder Sharma, Advocate and Mridul Sharma, Advocate have put in appearance on behalf of the complainant, filed their power of attorney, which is taken on record and seeks time to file reply.

Adjourned to 06.07.2023.

Meanwhile, arrest of the petitioner shall remain stayed, till the next date of hearing.

State is directed to file reply in pursuance of the statement of accounts furnished by learned Senior counsel for the petitioner. Learned counsel for the complainant is also directed to file a detailed reply, if they wish to do so.

3. Thereafter, on 22.05.2024, the following order was passed in this case:

"On 31.05.2023, a Coordinate Bench of this Court, while issuing notice of motion. had noticed the following submissions made by the learned Senior counsel appearing for the petitioner: -

"Learned counsel for the petitioner submits that the alleged payments have been duly transferred in the accounts of the complainants."

Thereafter, on 02.06.2023, it was ordered that no coercive steps shall be taken against the petitioner.

At the outset, learned State counsel, on instructions from ASI Surinder, has informed the Court that the FIR in question was registered at the instance of complainant-Sohan Lal. The complainant-Sohan Lal had explicitly stated in his statement under Section 161 Cr.P.C. that he had transferred Rs.10 lakhs to the petitioners through bank transactions, which amount has since been returned to him and that too, via bank transactions.

When a pointed query was put to the learned State counsel about the total amount transferred to the petitioners via bank transactions, the learned State counsel, on instructions, informed the Court that as per the complainant- Sohan Lal, amount to the tune of approximately Rs.10 lakhs had been transferred through the bank. The remaining amount of approximately Rs.97 lakhs had been allegedly given to the accused in cash. Learned State counsel has submitted that on the previous date of hearing i.e. 02.05.2024, it had been erroneously noted that an amount of Rs. 47 lakhs, in addition to Rs.2 crores, was paid in cash to the accused.

Learned State counsel has further submitted that as on date, since all the amount transacted through bank transactions had been returned back to the complainant in the FIR, the petitioner be directed to join investigation.

Learned Senior counsel for the petitioner, in the light of the undertaking given on the last date of hearing, has brought cheques totalling a sum of Rs.47,87,533/- in the name of the persons, who had deposited various sums of money into the account of the petitioners. However, there is no representation on behalf of those persons. Learned Senior counsel for the petitioner has also reiterated that the entire amount of money, which had been allegedly paid by the complainant to the petitioner, already stands returned to him.

Learned counsel for the complainant has, however, vehemently opposed the prayer and submissions made by the counsel opposite by drawing the attention of this Court to the serious allegations levelled against the petitioner. It has been argued that the petitioner had duped many people of crores of rupees and hence, his custodial interrogation was necessitated as recovery of huge amount of money was to be done.

On a pointed query put to the learned counsel for the complainant as to the total amount paid through bank transactions, he was not able to refute that the total amount through bank transactions was indeed Rs.10 lakhs However, he has asserted that the amount which had been paid in cash to the petitioners, was running into crores and that also required to be recovered He also argued that other than Sohan Lal, there were similarly aggrieved persons, who had been duped by the petitioners.

When a query in the said regard was directed towards the learned State counsel, she, on instructions, submitted that in the present FIR, there was only one complainant i.e. Sohan Lal, however, subsequently, certain complaints from other persons have also beer also been received; the investigating agency is looking into them and if required, would take appropriate action in accordance with law.

Adjourned to 27.08.2024.

Meanwhile, the petitioner is directed to join the investigation and appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.

Photocopy of this order be placed on the file of the connected case."

4. Learned senior counsel for the petitioner has submitted that the dispute is primarily a business dispute and the petitioner has been falsely implicated into the FIR in question. Learned senior counsel has fairly conceded at the Bar that he has instructions from the petitioner to state that the petitioner is trying to undo the financial loss caused to the complainant to whatever extent possible. In this regard, learned senior counsel has brought some cheques in the name of the persons who had deposited various sums of money into the account of the petitioners which shall be handed over to the Investigating Officer of the FIR in question. Learned senior counsel has urged that the FIR in question essentially emanates from the business enterprises having not been successful and there is no criminal culpability invocable against the petitioner in view of this factual backdrop. It is further submitted that the entire dispute, even if taken at its face value is of a purely civil and commercial nature arising out of contractual obligations and no ingredients of any cognizable offence are made out.

5. Learned State counsel, on instructions, has stated that pursuant to the orders dated 02.06.2023 and 22.05.2024 respectively, the petitioner has joined investigation. Learned State counsel has, however, opposed the grant of instant petition by arguing that allegations against the petitioner are serious in nature. To buttress his arguments, he has referred to reply dated 26.08.2025 by way of affidavit of Randhir Singh, HPS, DSP Ladwa, Kurukshetra, relevant whereof reads as under:

> *"4. That in previous reply dated 23.10.2024 the answering respondent had inadvertently shown an amount of Rs.1,27,71,141/- as the total amount received by petitioner but in actual the petitioner/accused had received total amount of Rs.1,20,77,041/- as entirities of Rs.2,00,000/-, Rs.4,00,000/- Rs.1,00,000/- and Rs.100/- of victim/complainant were wrongly calculated in the amount received by the petitioner.*

However, the above said amount of Rs.2,00,000/- was received by Neeraj wife of Sohan Lal and Rs.5,00,100/- was received by victim/complainant Anil Kumar instead of petitioner/accused. The petitioner/accused has returned a total amount of Rs.51,83,492/- to victims/complainants of the present case but recovery of remaining amount Rs.68,93,549/- is still pending hence petitioner/accused is not entitled for any relief as claimed in the present petition and the same is liable to be dismissed. "

However, it is not the case of the State that the petitioner has misused the said concession.

6. Learned counsel appearing for complainant has opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature as he has duped many innocent people of large amount of money. It has been further contended that the petitioner has not returned the whole of the amount duped from unsuspecting common men at large. With these submission, it has been prayed that the petitioner ought not be extended the concession of anticipatory bail.

7. I have heard learned counsel for the rival parties and perused the record.

8. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Kishor Vishwasrao Patil vs. Deepak Yashwant Patil and another*** passed in ***SLP(Crl) No.1125-2022,*** relevant whereof reads as under:

"74. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far

collected and to collect more information which may lead to recovery of relevant information.

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75. Observing that the arrest is a part of the investigation intended to secure several purposes, in ***Adri Dharan Das v. State of W.B. [Adri Dharan Das v. State of W.B., (2005) 4 SCC 303 : 2005 SCC (Cri) 933]*** *, it was held as under : (SCC p. 313, para 19)*

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 *of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under* Section 438 *of the Code will amount to interference in the investigation, which cannot, at any rate, be done under* Section 438 *of the Code."*

76. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra [Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : (2011) 1 SCC (Cri) 514]****, the Supreme Court laid down the factors and parameters to be considered while dealing with anticipatory bail. It was held that the nature and the gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made and that the court must evaluate the available material against the accused very carefully. It was also held that the court should also consider whether the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*

77. After referring to Siddharam Satlingappa Mhetre **[Siddharam Satlingappa Mhetre v. State of Maharashtra**, ***(2011) 1 SCC 694 :***

(2011) 1 SCC (Cri) 514] *and other judgments and observing that anticipatory bail can be granted only in exceptional circumstances, in* **Jai Prakash Singh v. State of Bihar [Jai Prakash Singh** ***v. State of Bihar, (2012) 4 SCC 379 : (2012) 2 SCC (Cri) 468]*** *, the Supreme Court held as under : (SCC p. 386, para 19)*

*"19. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. (**See*** **D.K. Ganesh Babu v. P.T. Manokaran [D.K. Ganesh Babu** ***v. P.T. Manokaran, (2007) 4 SCC 434 :(2007) 2 SCC (Cri) 345] , State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain [State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain, (2008) 1 SCC 213 : (2008) 1 SCC (Cri) 176] and Union of India v. Padam Narain Aggarwal [Union of India v. Padam Narain Aggarwal, (2008) 13 SCC 305 : (2009) 1 SCC (Cri) 1] .)"***

Economic offences

78. Power under Section 438 *CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. In* **Directorate of Enforcement v. Ashok Kumar Jain [Directorate of Enforcement** ***v. Ashok Kumar Jain, (1998) 2 SCC 105 : 1998 SCC (Cri) 510]****, it was held that in economic offences, the accused is not entitled to anticipatory bail."*

15. In **Sushila Agrawal and others v. State (NCT of Delhi) and Another** ***reported in (2020) 5 SCC 1****, Constitution Bench of this Court held that while considering an application for grant of pre-arrest bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence or likelihood of fleeing justice. The Court held:-*

> *"92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed) are dependent on facts of the case, and subject to the discretion of the court."*

9. The grant of bail is intrinsically linked with the cherished right to personal liberty enshrined under the Constitution and any adjudication in this regard must necessarily be undertaken in the backdrop of the factual *milieu* of each individual case. While considering an application for anticipatory bail, the paramount consideration before the Court is that the concession so granted ought not to occasion any impediment in the fair and effective conduct of investigation. In circumstances where the applicant-accused has already been extended the benefit of interim protection for a long period of about 2½ years and he has joined the investigation pursuant thereto and record does not reflect any act of misuse/abuse of such concession, the balance of convenience tilt in favour of such an applicant-accused.

In the factual matrix of the instant case, an attempt has been made on behalf of petitioner to concede that he is making an endeavour to make good the financial loss caused to the victims. It is trite law that mere extension of certain financial concessions or payment by the accused in order to redress, wholly or partially, the pecuniary loss of the complainant/victims cannot, by itself, constitute a valid ground for grant of anticipatory bail. However, keeping in view the entirety of the factual *milieu* of the case in hand; especially the factum of the FIR in question seemingly to have arisen out of a commercial kind of dispute; the petitioner having been extended the concession of interim protection since 02.06.2023 and 22.05.2024, respectively, which is in vogue till date; the petitioner making himself available for interrogation as and when required by the Investigating Officer; no specific and tangible material having been brought forward to indicate that the petitioner has misused the concession of adinterim bail which was afforded to him since 02.06.2023; this Court is inclined to confirm the interim orders dated 02.06.2023 and 22.05.2024 earlier passed by this Court and the same are hereby made absolute, subject to the conditions as enumerated under Section 438(2) of Cr.P.C..

10. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned ibid and will not operate in respect of any other incident that involves commission of an offence.

11. Liberty is reserved in favour of State/complainant/victim to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) of Cr.P.C. or upon showing any other sufficient cause.

12. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

September 08, 2025
Ajay

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