IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104 **CRM-M-43145-2025**

Date of decision: 08.08.2025

Mohd. Isha ....Petitioner

V/s

State of Haryana ....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Afjal Hussain, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of pre-arrest/anticipatory bail to the petitioner in case bearing FIR No.22 dated 25.01.2024, registered for the offences punishable under Sections 120-B, 420, 467, 468, 471 of IPC at Police Station Sector 17, District Faridabad.

2. The essence of the allegations made in the FIR is that M/s Tata Motors Finance Ltd., a Non-Banking Financial Company (NBFC) with its office located at SCO-10, First Floor, above IndusInd Bank, Sector 16 Main Market, Faridabad, is engaged in the business of refinancing commercial vehicles. In the course of its business, the petitioner, in collusion with co-accused approached the company seeking refinance facilities. Consequently, a sum of Rs.86,81,072/- was disbursed to the petitioner and other associated persons for the purchase of the vehicles. However, it is alleged that the petitioner, in conspiracy with co-accused, misrepresented facts and submitted forged and fabricated documents with a dishonest intent to avail the said refinance facility. Although loan agreements were duly executed,

the petitioner subsequently defaulted on the repayment of installments. Furthermore, it was alleged that the financed vehicles could not be traced and the addresses provided by the accused were found to be fictitious. As a result, the petitioner and co-accused are alleged to have committed offences of cheating and forgery thereby causing substantial financial loss to the company. On the basis of the aforesaid complaint, instant FIR has been registered against the petitioner and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner is neither named in the FIR nor involved in the commission of any offence and has been falsely implicated without any direct or cogent evidence. It has been further iterated that the dispute arises out of a commercial refinancing transaction and even if the allegations are presumed to be true, the matter is purely civil in nature lacking the requisite *mens rea* to attract criminal liability. Learned counsel has further submitted that the FIR in question is vague, delayed and failed to attribute any specific overt act or recovery. Learned counsel asserts that the allegations levelled against the petitioner in the impugned FIR are entirely baseless and devoid of any credible or cogent material. Furthermore, the petitioner has no connection whatsoever with the alleged offence. According to learned counsel, in the absence of substantive and incomplete material, the entire prosecution narrative is nothing but an abuse of process. Lastly, it has been further argued that there is no need for custodial interrogation of the petitioner, as the case is document based and the petitioner poses no flight risk or threat to the investigation. On strength of aforesaid submissions, the grant of anticipatory bail is entreated for.

4. *Per contra*, learned State counsel (on the strength of advance notice) has opposed the grant of anticipatory bail to the petitioner by arguing

that the petitioner, in collusion with co-accused played an active role in orchestrating a fraudulent scheme to obtain substantial refinance from the complainant company by using forged documents. He has further submitted that the petitioner is part of a well planned conspiracy, which caused a significant financial loss to the company. It has been further submitted that the gravity and magnitude of the offence involving forgery and cheating pertaining to huge amount to the tune of approximately Rs.86.00 lacs and hence warrant custodial interrogation to unearth the full extent of the conspiracy. He has further contended that in light of the seriousness of the allegations, the custodial interrogation of the petitioner is imperative for a fair and thorough investigation. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

6. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The FIR *ibid* was lodged on the basis of a complaint filed by the complainant-company alleging that under the pretext of refinancing commercial vehicles, the petitioner and co-accused in order to obtain substantial refinance from the complainant company disbursed a substantial amount i.e. approximately Rs.86.00 lacs by misrepresenting the facts and submitting forged documents. The loan agreements were executed but repayment of the loan was defaulted and the vehicles which were the subject matter of finance could not be

traced. The addresses furnished by the petitioner and co-accused were also turned out to be fictitious. The nature and gravity of the allegations involving economic offences of considerable magnitude cannot be lightly brushed aside. The investigation is still going on and the role of the petitioner is yet to be full uncovered. The allegations, on the face of it, reflect a well orchestrated financial fraud involving multiple individuals. The use of forged documents and misrepresented to secure refinance to the tune of approximately Rs.86.00 lacs is not a routine civil dispute. The absence of direct recovery from the petitioner does not exonerate him when the conspiracy is alleged to be collective in nature and the precise role of each accused are still under investigation.

7. The contention that the matter is purely civil in nature is misplaced. Mere execution of loan documents or involvement in a commercial transaction does not preclude the invocation of criminal law where elements of fraud, deceit and forgery are *prima facie* established. Furthermore, the delay in lodging the FIR is not fatal in a case of financial fraud where the discovery of the offence often takes time, particularly when complex documentation, multiple parties and interlinked transactions are involved. In economic offences involving multiple accused and complex transactions, the custodial interrogation often plays a crucial role in unearthing the *modus operandi* and identifying the full chain of conspiracy.

8. The investigation is at nascent stage and the recovery of crucial documentary evidence coupled with other circumstances detailed in the investigation, points towards the active complicity of the petitioner in the alleged offence and to defraud the complainant-company. The stand of the State before this Court is that the custodial interrogation of the petitioner is

indispensable to unearth the full extent of the conspiracy. The nature and gravity of the offence, involving defrauding the complainant-company, necessitate a thorough investigation, which, at this stage, cannot be conducted without the petitioner being in custody. Moreover, no exceptional or compelling circumstance has been demonstrated which would warrant the grant of anticipatory bail in such a serious offence. The petitioner, in a calculated and fraudulent manner, proceeded to defraud the complainant-company.

9. It is befitting to mention here that while considering a plea for grant of anticipatory bail, the Court has to equilibrate between safeguarding individual rights and protecting societal interest(s). The Court ought to reckon with the magnitude and nature of the offence; the role attributed to the accused; the need for fair and free investigation as also the deeper and wide impact of such alleged iniquities on the society. It is imperative that every person in the Society can expect an atmosphere free from foreboding & fear of any transgression. At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusation of the petitioner. Thus, it is not appropriate to grant anticipatory bail to the petitioners, as it would necessarily cause impediment in effective investigation. In ***State v. Anil Sharma, (1997) 7 SCC 187 : 1997 SCC (Cri) 1039]***, the Supreme Court held as under : (SCC p.189, para 6)

> *"6. We find force in the submission of CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which*

> *would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."*

10. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual *milieu* of the case in hand. In view of the foregoing and considering the seriousness of the allegations, the magnitude of financial loss and the ongoing nature of investigation; this Court is of the considered opinion that the petitioner has failed to make out a case for the grant of anticipatory bail. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth.

11. In view of the prevenient ratiocination, it is directed as under:

(i) The petition in hand is dismissed being devoid of any merits.

(ii) Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

(iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 08, 2025
Ajay

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