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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.59511 of 2023
Date of decision: 07.02.2025

Bharat Sharma ... Petitioner
Vs.
State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ritesh Tomar, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

None for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
123	09.05.2023	Udyog Vihar, District Gurugram	406, 420 and 120-B of IPC

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of a complaint lodged by the complainant Sanjay Kumar who was an ola cab driver on his behalf as well as on behalf of 20-25 more ola cab drivers, on the allegations that the petitioner who was the running a firm in the name of Indian Auto Care had induced him and other cab drivers to

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get self owned cars with guaranteed business after depositing some instalments. On being allured by him, the complainant and other cab drivers had deposited their hard earned money. The petitioner neither returned the said money nor the vehicles assured to be provided by him were given to the victims. Rather the petitioner caused huge financial loss to the complainant and others. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending his arrest, the petitioner moved an application for grant of pre arrest bail which was dismissed by the Court of learned Additional Sessions Judge, Gurugram vide order dated 02.11.2023.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Infact, he was running a company in the year 2019 which had tie up with some car dealers and car showrooms. He used to get commercial cars purchased for his consumers from the car dealers on commission basis. One of the dealers of such cars namely, Akshara Motors had cheated the persons who deposited money with it for the purpose of buying cabs. He had absconded with huge amount of money so invested. The petitioner himself suffered huge loss as he had settled the amount given by the customers through him to Akshara Motors. He himself is a victim. He has already joined investigation. His custodial interrogation is no more required. No recovery is to be effected from him as the money was invested with the dealers' company and not with him. Therefore, it is urged that he deserves to be extended benefit of

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pre arrest bail.

4. Status report has already been filed by the respondent-State. It is argued by learned Assistant Advocate General, Haryana that there are serious allegations against the petitioner who was floating a firm in the name of an Indian Auto Care. As a proprietor of the said firm, he had allured the complainant and other victim drivers to deposit money in his bank account on the pretext of getting vehicles financed for them and for getting their vehicles engaged with various companies as taxis. He had issued receipts in the names of his firm and then transferred the account of his firm in the name of a company run by his father and closed that company too. His custodial interrogation is required for ascertaining the modus operandi adopted by him and also to elicit information about complicity of the other accused. No exceptional or extraordinary circumstance for grant of bail has been made out in favour of the petitioner. Though he had been allowed to join investigation in this petition but he did not abide by the terms of the same and the amount of money which he had assured to pay was not deposited. Therefore, it is urged that he does not deserve to be extended benefit of pre arrest bail.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The petitioner is alleged to have duped the complainant and some other poor cab drivers of their hard earned money by alluring them that he would arrange financing of new vehicles on down payment and

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by guaranting handsome earnings by running those vehicles as taxis. The petitioner has not denied the fact that he had set up a firm for this purpose. Investigation conducted so far has revealed that huge amount of money has been transferred in the bank account of his firm and the same had been transferred. The allegations against him are serious in nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. 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's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as an inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the

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Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. Keeping in view the gravity thereof, the role attributed to the petitioner, the likelihood of his influencing the course of investigation and also of tampering with the evidence, no ground has been made out for allowing the petition. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

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

07.02.2025
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No