



CRM-M-20308-2023

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

101-2

CRM-M-20308-2023

Date of decision: 08.09.2025

Rohtash @ Rohit Sharma

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Neeraj Jain, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

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

SUMEET GOEL, J. (Oral)

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.80 dated 07.02.2023, under Sections 406, 420 and 120-B of IPC and 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 25.04.2023, the following order was passed:-

“Present petition has been filed under Section 438 of CEPC 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 and 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 counsel for the petitioner contends that petitioner has been falsely implicated in the present case as he is nowhere connected with the present FIR. Learned counsel further contends that a total amount of Rs.7,27,700/- (Rs.2,27,700+5,00,000/-) was admittedly received in the petitioner's account on behalf of Ankur Mittal, on 04.02.2022, which has been stated to be refunded back to the same amount, which belongs to one Rahul, after 2-3 days of the said



transaction. Learned counsel further contends that Shilpa Mittal i.e. wife of Ankur Mittal, who's account details were mentioned in the FIR has been granted interim anticipatory bail by this Court vide order dated 13.03.2023 passed in CRM-M-11253-2023. Learned counsel further submits that nothing is to be recovered from the petitioner and he is ready to join the investigation.

Notice of motion.

Mr. Karan Garg, AAG Haryana, who is present in the Court, accepts notice on the asking of the Court and seeks time to file reply/status report.

Adjourned to 18.05.2023.

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

3. Thereafter, on 22.05.2024, the following order was passed in the connected case i.e. CRM-27224-2023:

“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 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 counsel for the petitioner has iterated that the petitioner has been falsely implicated into the present case as he has no connection whatsoever with the allegations mentioned in the FIR. Learned counsel has further contended that the involvement of the petitioner is only being presumed on account of a financial transaction which in fact was carried out on behalf of co-accused Ankur Mittal. Learned counsel has pointed out that the amount which was credited into the bank account of the petitioner on 04.02.2022 was not retained by the petitioner and the entire amount was duly refunded to the same account belonging to one Rahul after 2/3 days of the transactions. Learned counsel has further contended that neither there is any wrongful gain to the petitioner nor any dishonest intention attributable to the petitioner and therefore, continuation of the proceedings against him is an abuse of process of law. On the basis of aforesaid submission, the grant of instant petition is entreated for.

5. Learned State counsel, on instructions, has stated that pursuant to the orders dated 25.04.2023 and 22.05.2024 respectively, the petitioner has joined investigation. He has, however, opposed the grant of instant petition by arguing that allegations against the petitioner are serious in nature. 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



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 contend that the co-accused has conceded 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 25.04.2023 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 ad-interim bail which was afforded to him since 25.04.2023; this Court is inclined to confirm the interim orders dated 25.04.2023 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 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