



*and 120-B of IPC at Police Station Gurgaon Sadar, Gurugram.*

*Notice of motion.*

*Mr. Arjun Lakhanpal, Addl. A.G., Haryana, who is present in Court, accepts notice on behalf of the respondent-State and seeks some time to file the status report.*

*Mr. Rajesh K. Sheoran, Advocate, who is also present in Court, accepts notice on behalf of the complainant and files his memo of appearance. He seeks some time to address arguments and file his power of attorney.*

*List again on 11.02.2025.*

*In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on ad-interim bail subject to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 482(2) of BNSS.”*

4. Learned State counsel has submitted that though the petitioner has joined the investigation on 25.12.2024, however he has not co-operated with the investigating agency since the disputed amount has not been got recovered by him. It is a well-established proposition of law that the criminal law process, especially while deciding applications for bail, should not be used for coercion or recovery of money and rather should be based on the merits of the case. The decisions in bail applications should not be made on the nature of the accusation, the severity of potential punishment, and the likelihood of an accused absconding. Reference in this regard can be made to ***Dilip Singh vs. State of Madhya Pradesh and another, 2021(R) RCR (Criminal) 585***, wherein it was observed by this Court that a criminal court exercising jurisdiction to grant bail/anticipatory bail is not expected to act as a recovery

agent to realize the complainant's dues without any trial. Further reference can also be made to *Manoj Kumar Sood and another vs. State of Jharkhand, Special Leave to Appeal (Crl.) No. 1274 of 2021*, decided on March 19, 2021, wherein it was observed that disputed dues cannot be recovered in criminal proceedings

5. In view of this position of law, the petitioner cannot be denied bail solely because of the fact that the disputed money has not been recovered by him. In my considered opinion, no useful purpose would be served by detaining the petitioner in custody. Hence, the present petition is allowed, and the order dated 20.12.2024, granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 482(2) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (analogous to Section 438(2) of the Code of Criminal Procedure).

26.03.2025

Parveen kumar

(MANISHA BATRA)  
JUDGE

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