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

212

CRM-M-24345-2024**Date of decision: 01.08.2024****Rajveer Singh Samra and another**

...Petitioners

V/s

Central Bureau of Investigation

...Respondent

CORAM: HON'BLE MR. JUSTICE MANJARI NEHRU KAULPresent: Mr.R.S.Rai, Senior Advocate with
Mr. Anurag Arora, Advocate for the petitioners.

Mr. Ravi Kamal Gupta, Standing counsel for CBI.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 438 of the Cr.P.C. in case FIR No.RC0052020A0011 dated 08.07.2020 under Sections 420, 406, 403, 120-B of the IPC and Sections 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station ACB, Chandigarh.

2. On the last date of hearing, the learned Senior counsel for the petitioners had made the following submissions:-

“Learned senior counsel for the petitioners inter alia submits that the allegations regarding loan pertained exclusively to M/s GAPL. Petitioner Rajveer Singh was never a director of M/s GAPL, and petitioner Sukhveer Singh, although a former director, ceased to be one in June, 2014. Notably, the loan in



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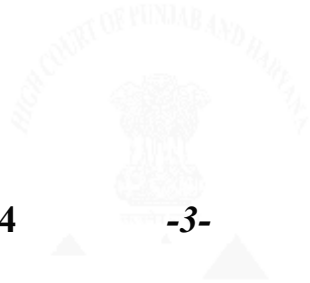
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question was approved for M/s GAPL in December, 2015. Both the petitioners were solely guarantors for a certain property hypothecated to the bank, and they had no further role in the loan transaction. It has been further submitted that both the petitioners had duly joined investigation and cooperated with the investigating agency as and when summoned. Attention of this Court has also been drawn to the replies filed by the CBI (Annexures P-10 and P-11) in response to the bail applications of the petitioners before the learned Trial Court. It has been submitted that these replies clearly indicate that the CBI did not arrest the petitioners during the investigation, underscoring that their custodial interrogation had never been sought and not even required. Additionally, it has been urged that the only other allegation against petitioner Sukhveer Singh concerns a stock statement allegedly signed by him; however, to date, no FSL report has confirmed the authenticity of his signatures on this statement. Learned senior counsel has still further argued that, as guarantors, even as per the case of the CBI, prima facie offences under Sections 420, 406 of the IPC are not even made out against the petitioners. There are no allegations of forgery against either of the petitioners, and the categorical stand of the CBI implicates them solely based on the strength of an offence under Section 120B of the IPC which position is also substantiated by the reply of the CBI dated 27.05.2024. (page 26) Lastly, it has been submitted by learned senior counsel for the petitioners that the three FIRs have been lodged against the petitioners for the same cause of action, which constitutes a clear abuse of the legal process. Moreover, one of these FIRs was quashed by a Division Bench of this Court vide order dated 27.05.2024.”

3. In addition, learned Senior Counsel for the petitioners submits that the CBI has misused its powers by registering the present FIR dated 08.07.2020 based on a complaint by the Punjab National Bank (hereinafter referred to as ‘PNB’). This FIR is the third instance of an FIR being



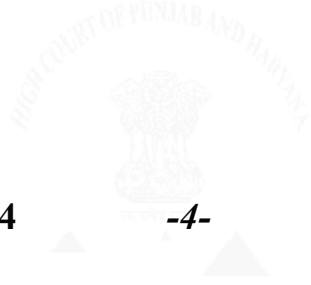
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registered for the same cause of action, following two previous FIRs filed by the Punjab Police and the CBI; this third FIR was lodged solely to harass them.

4. It has been submitted that as per allegations levelled, co-accused M/s Golden Agrarian Pvt. Ltd. (hereinafter referred to as 'GAPL') secured a loan in the form of cash credit and term loan during the year 2015-2016 using stock and securities as collateral. Another co-accused M/s Star Agri Warehousing and Collateral Management Limited (hereinafter referred to as the M/s Star Agri) was appointed as the Collateral Manager for the warehoused goods, with separate stock auditors appointed for verification. The account of GAPL was classified as non-performing asset (NPA) on 31.03.2018. During a physical verification of stocks, it was discovered that the hypothecated stocks had been clandestinely disposed off by the Directors of GAPL and other co-accused, including the petitioners, in collusion with employees of M/s Star Agri, who were purportedly responsible for the custody of the stocks. Consequently, on 10.01.2023, a challan was presented against the petitioners under various sections of the Indian Penal Code, and against co-accused-Dev Raj Dutta under additional Sections of the Prevention of Corruption Act, 1988. However, prosecution sanction for Dev Raj Dutta was declined by the competent Authority in July, 2023.

5. It has been vehemently asserted that the sequence of events leading to the registration of the present FIR indicates a blatant abuse of the legal process. On 12.09.2019, FIR no.195 was registered by the Punjab Police based

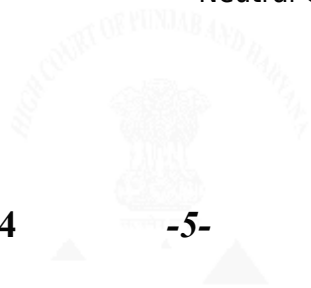


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on a complaint made by Pramod Kumar, who was State Head of M/s Star Agri, wherein similar allegations were made against the petitioners. They were accused of releasing a substantial portion of the pledged stocks without repaying the corresponding loan amount to PNB. The petitioners were granted the concession of anticipatory bail by the learned Additional Sessions Judge on 12.12.2019, who in his order noted that there was no evidence suggesting that the petitioners had misappropriated the stocks as the custody of the stocks had always remained with M/s Star Agri. However, on 30.06.2020, another FIR was registered by the CBI, with respect to allegations of misappropriation of pledged stocks which were in the custody of M/s Star Agri. Despite this, the petitioners were granted the concession of bail on 23.01.2023 by the learned Special Judge, CBI, SAS Nagar, Mohali. While granting the concession of bail, the Court categorically observed that the petitioners had fully cooperated with the investigation and posed no flight risk.

6. Learned Senior counsel has still further asserted with vehemence that it is evident from the circumstances that the registration of three different FIRs for the same cause of action clearly constitutes a gross abuse of the legal process. In both the earlier FIRs, the petitioners had not only joined investigation and cooperated fully with the investigating agency but had also been granted anticipatory bail by the concerned Courts. Similarly, in the present FIR, the petitioners have joined investigation, cooperated throughout, and also provided all the requisite documentary evidence to the CBI. In support, learned Senior counsel has also drawn the attention of this Court to the reply filed by the



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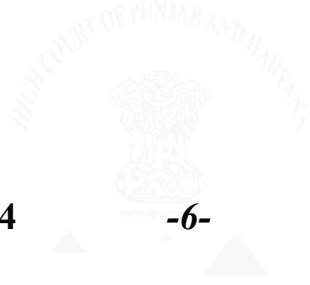
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CBI, annexed as Annexures P-8 and P-9. It has still further been contended that the investigation in the present case is complete, and it is on record, as is evident from the replies filed by the CBI (Annexures P-8 and P-9) that the petitioners were neither arrested during investigation nor was their custodial interrogation sought by the CBI hence, given that they had fully cooperated, they are entitled to the concession of anticipatory bail; there is also no apprehension of the petitioners tampering with evidence or fleeing during the trial. In support of his submissions, learned senior counsel has placed reliance upon **Mahdoom Bava vs. Central Bureau of Investigation, 2023 Live Law (SC) 218, Tarsem Lal vs. Directorate of Enforcement, Jalandhar Zonal Office, Criminal Appeal No.2608 of 2024, Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1.**

7. Per contra, learned Standing counsel for the CBI, while vehemently opposing the prayer and submissions made by the counsel opposite, has argued that both the petitioners as Directors of Amyra Foods Pvt. Ltd. masterminded an elaborate plan to obtain loans from PNB based on hypothecated goods, which they then clandestinely disposed off, before the loan amount could even be repaid, causing a huge loss to PNB, amounting to over Rs.48 crores.

8. Learned Standing counsel for the CBI has further elaborated that this fraudulent plan involved collusion with officials of M/s Star Agri, who were responsible for ensuring the safe custody of the hypothecated goods. These officials fabricated stock registers and submitted false audit reports at the behest



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of petitioner No.1-Rajveer Singh in exchange for financial gains. Furthermore, the warehouse Supervisor co-accused Ram Kumar, corroborated these allegations in his statement made under Section 164 of Cr.P.C., categorically stating that he had issued false registers under the directions of the co-accused Pramod Kumar, State Head of M/s Star Agri, and that all stock receipts were issued by the petitioners without the actual stocks being in existence.

9. While placing reliance upon the decision of Hon'ble the Supreme Court in **Sushila Aggarwal's case (supra)**, learned Standing counsel for the CBI has argued that while considering an application for the grant of anticipatory bail, the Court must consider the likelihood of the accused indulging in similar offences in case his application for anticipatory bail is allowed. He has further submitted that the petitioners had repeatedly been involved in economic offences which was evident as two more FIRs had been registered against them for committing similar offences. Learned Standing counsel for CBI has further disputed the submissions made by the learned senior counsel opposite that the other two FIRs registered against the petitioners were for the same cause of action; he submits that other two FIRs were not registered on the same cause of action rather the loan amount, lending Banks as well as the companies involved were different, and only the Directors of the Company i.e. the petitioners, were common in all the 3 cases. Furthermore, several banks which had been defrauded by the petitioner had initiated DRT proceedings against the petitioners wherein the application filed by the said banks for recovery of different amounts totalling about Rs.60 crores had been allowed and the orders had since attained



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finality. In support, learned counsel has invited the attention of this Court to the orders dated 7.11.2019 and 05.10.219 passed by Presiding Officer, DRT-I Chandigarh. It has also been brought to the notice of this Court that in a case registered under the Negotiable Instruments Act, petitioner No.2, Sukhveer Singh Samra, has been declared a proclaimed offender and thus, on this ground also he would not be entitled to the grant of anticipatory bail.

10. Learned Standing counsel for CBI has, thus, argued vehemently that the fraud and embezzlement perpetuated by the accused, including the petitioners, caused huge financial losses to PNB, which without doubt were hazardous to the economic health of the country and thus precluded them from being extended the extraordinary concession of anticipatory bail.

11. I have heard learned counsel for the parties and perused the relevant material on record.

12. When deciding an application for anticipatory bail, particularly in cases involving economic offences and of substantial magnitude, a Court must meticulously consider not only the gravity and potential societal impact of the allegations detailed in the FIR but also the broad implications in case anticipatory bail is granted. It is, therefore, essential to thoroughly understand the nature and gravity of the allegations and the precise role of the accused in the alleged offences. Furthermore, the Court is also expected to scrutinise the antecedents of the accused. The risk of the accused fleeing from justice must also be assessed.



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13. In **Sushila Aggarwal's** case (supra), Hon'ble the Supreme Court emphasised upon the principles governing the grant of anticipatory bail. Hon'ble the Supreme Court while highlighting the importance of evaluating the nature and gravity of the alleged offences, the specific role attributed to the accused and the unique facts of the case held that the decision in a petition for anticipatory bail has to be tailored to the particular circumstance of each case.

14. In **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 Live Law (SC) 577**, the Hon'ble Supreme Court further dealt into the considerations necessary for granting anticipatory bail in cases involving economic offences emphasising the nuanced approach required. The Hon'ble Supreme Court observed that economic offences have the potential to severely undermine the financial stability of the country, causing widespread and profound harm to the nation's economic health.

15. The petitioners herein have asserted their entitlement to bail on the grounds that the investigating agency did not seek their custodial interrogation during investigation. This assertion, in the considered opinion of this Court, is fundamentally flawed when used as a basis for anticipatory bail. Hon'ble the Supreme Court in **Sumitha Pradeep vs. Arun Kumar C.K. & another, Criminal Appeal No.1834 of 2022**, held that it was imperative to clarify the prevalent legal misconception regarding anticipatory bail; the necessity for custodial interrogation of the accused should not be the sole criterion for either granting or denying the anticipatory bail. Hon'ble the Apex Court further observed that while custodial interrogation is a significant factor, it must be



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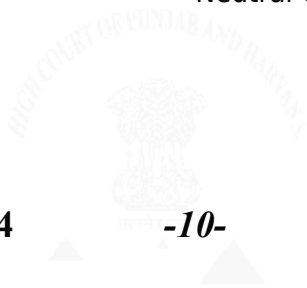
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assessed in conjunction with the other relevant consideration while deciding a prayer for anticipatory bail. There could be numerous scenarios where custodial interrogation may not be required. However, this did not imply that the prima facie case against the accused should be disregarded, nor should it result in the automatic granting of anticipatory bail. It was still further held by the Hon'ble Supreme Court that the Court should examine the nature of the offence and the severity of the potential punishment. The Hon'ble Supreme Court went on to categorically hold that although the need for custodial interrogation could be a valid basis for denying an anticipatory bail, the absence of such a need would not, in itself, justify the grant of bail, even if the investigating agency did not require the custodial interrogation of an accused. Hence, in the wake of the categorical observations made in **Sumitha Pradeep's case (supra)**, the presence or absence of a requirement for custodial interrogation cannot be the decisive factor while deciding a petition for anticipatory bail.

16. Adverting to the case in hand, the investigation has ostensibly revealed a criminal conspiracy orchestrated by the Directors of GAPL, Harjinder Singh (father of the petitioners and since expired) and Malkiat Singh, who applied for a loan from PNB, with the petitioners Rajveer Singh and Sukhveer Singh, Directors of Amyra Foods Pvt. Ltd., standing as guarantors. The allegations *prima facie* indicate that in connivance with co-accused Pramod Kumar, State Head of M/s Star Agri, the petitioners dishonestly and fraudulently disposed off the stocks hypothecated with PNB, without repaying the loan, which had been obtained by the Company.



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17. Furthermore, it would also be relevant to notice that the alleged active involvement of the petitioners is further elucidated in the statement recorded under Section 164 of Cr.P.C. by accused Ram Kumar who was at the relevant time Warehouse Supervisor-cum-Watchman of M/s Star Agri. In his statement under Section 164 of Cr.P.C., he disclosed that he had made false entries in the Master Stock Registers (MSR) and issued Commodity Inward Sheet (CIS) from 11.4.2017 onwards, with the petitioners' signing as depositors on some of the CIS. Additionally, to disguise the absence of actual stocks, stacks of wooden crates were allegedly inspected in the presence of the petitioners and the other co-accused. In addition, allegedly the petitioners, in connivance with the co-accused, obtained false stock registers from the Warehouse Supervisor-cum-Watchman, co-accused Ram Kumar, without the actual stocks being in possession.

18. It would also not be out of place to mention here that there are criminal cases pending against the petitioners involving similar allegations; furthermore this Court has also been apprised by the learned Standing counsel for CBI, in a complaint case under Section 138 of Negotiable Instruments Act, petitioner no.2 has been declared a proclaimed person.

19. Given the gravity of the allegations and substantial *prima facie* evidence implicating the petitioners in a fraud resulting in financial losses exceeding Rs. 48 crores to the PNB and significant personal gains, the severity of the offences alleged cannot be ignored. The potential impact on the country's economic health necessitates a careful and thorough adjudication of the prayer



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made in the instant petition. Thus, considering the alleged roles of the petitioners, and following a prudent and cautious approach, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioners.

20. Accordingly, the instant petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

August 01, 2024

poonam

Whether speaking/reasoned:	Yes
Whether reportable:	Yes