IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M No.17019 of 2015.

Date of Decision: July 22, 2015.

Ashwani Kumar Uppal ....Petitioner.

VERSUS

State of Punjab ....Respondent.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. D.S. Sidhu, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General, Punjab.

Mr. Naveen Chopra, Advocate for respondent No.2.

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SNEH PRASHAR, J.

A petition under Section 438 of the Code of Criminal Procedure (in short, "Cr.P.C.") for grant of anticipatory bail was filed by the petitioner in case First Information Report No.5 dated 08.04.2015 under Section 406/420/465/467/468/471/120-B of the Indian Penal Code (in short, "I.P.C.") registered at Police Station NRI Amritsar, District Amritsar City.

In the complaint lodged by Narinder Kumar Khanna, on the basis of which the First Information Report, particulars of which have been mentioned above, was registered, he had mentioned that he was an NRI and was a British citizen. Being interested in investing in real estate in India, he had transferred 3 lac pounds (GBP) in the account of the petitioner who was dealing in sale and purchase of property and had also given Rs.75 lacs to D.S. Bawa and Rs.25 lacs to Daljit Singh for buying property at DLF Galiara, Jalandhar project. Out of Rs.2.25 crore given to the petitioner, he had paid Rs.6,68,626/- to DLF, Jalandhar and had returned Rs.25 lacs, but the balance amount of Rs.1,93,31,374/- which was to be paid to DLF Galiara, Jalandhar was neither given to the said company nor was returned to him. When he obtained statements of his bank accounts with PNB Basant Avenue and PNB Lawrence Road, Amritsar, he was surprised to find that the entire amount lying in his account No. 1339000500011982 had been withdrawn and the account had since been closed. He also learnt that the entries showing withdrawals were made in an unauthorized manner without his consent and without information to him.

Cheque No.25719 worth Rs.2,98,942/- that was to be deposited in the account of M/s Omaxe Novelty Mall was got encashed on 23.03.2007 but the amount was not transferred in the account of the company. On 31.03.2007 an amount of Rs. 16,71,188.54/- was debited from his account and same exercise was repeated a week later i.e. on 07.04.2007. Thereafter, on 22.02.2007 the complainant stated that it also came to his knowledge that two cheques of Rs.1 crore each and one cheque worth Rs.79,84,096/- had been got encashed on 26.02.2007 from Model Town Branch, New Delhi by debiting to his account.

During investigation, statement of witnesses were recorded and it was found that the cheques given by the complainant to the petitioner for payment to the Omaxe Novelty Mall, Amritsar company had been got encashed by him in connivance with the bank officials and the amount had been received in cash. The amount of the cheques got encashed from PNB Model Town Branch, New Delhi had also been obtained in cash illegally.

Apprehending his arrest, the petitioner filed an application for anticipatory bail before learned Additional Sessions Judge, which was dismissed vide order dated 02.05.2015.

Heard the submissions made by Mr. D.S. Sidhu, learned counsel representing the petitioner, Mr. Ashish Sanghi, learned Deputy Advocate General, representing the State of Punjab and Mr. Naveen Chopra, learned counsel representing the complainant-respondent No.2.

Learned counsel for the petitioner argued that the instant case had been got registered by the complainant by concocting a completely false story. The petitioner had business concerns in England and in Amritsar and had made huge investment in Omaxe Novelty Mall, Amritsar, opened by Omaxe Company Real Estate Developer. Nikky Khanna son of the complainant was a friend of the petitioner. He too wanted to invest in Omaxe Novelty Mall and with the help of the petitioner he and his mother purchased a commercial site in the said Mall. Since Nikky Khanna was not having requisite funds, his father-complainant introduced Harminder Singh Sooch as assignee for the project. No role was played by the petitioner in the purchase of properties by the complainant or his son. The money being sent by the complainant was being deposited in the account of Harminder Singh Sooch who used to make further payments as per instructions of the complainant. Harminder Singh Sooch cheated the petitioner also of a huge amount i.e. Rs.93 lacs which had been paid to him through various cheques for purchase of property in the name of the petitioner but he got allotted the property in his own name. The allegation of cheating or forging of bank documents by the petitioner was being raised only to harass and pressurize him so that he did not claim his money due to be paid by Harminder Singh Sooch and the complainant. Submitting that the complainant was not at any loss and the entire entry of credit and withdrawal in his account were very much in his knowledge and the petitioner was being falsely involved, learned counsel contended that the petitioner be given the benefit of anticipatory bail.

The petition was opposed by learned Deputy Advocate General representing the State of Punjab. He submitted that the authority letters alleged to be bearing signatures of the complainant based on which a cheque book had been got issued and huge amount had been withdrawn by the petitioner and his co-accused from the account of the complainant were forged. The forged documents were used in collusion with the bank officials. The amount of the cheques issued in the name of Omaxe Company/DLF Galiara was received in cash by the petitioner in connivance with the bank official on the basis of the forged documents. Even a cheque book of the account of the complainant was illegally got issued from the Bank by the petitioner for siphoning the amount from his account. The complainant had been cheated of crores of rupees and the petitioner was the main accused from whom major portion of the amount is to be recovered.

The petitioner is the main accused against whom are mainly direct allegations contained in the First Information Report. Not only there is allegation of complainant that he had been cheated of a huge amount there is also an allegation that various documents were forged by the petitioner and his co-accused to facilitate their illegal designs. A thorough investigation into the entire matter is necessary for which custodial interrogation of the petitioner will certainly be required.

In view of facts and circumstances and least any expression above may prejudice the case of either side, in my considered opinion, no case for grant of anticipatory bail to the petitioner is made out and his petition is dismissed.

(SNEH PRASHAR)
JUDGE

July 22, 2015
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