

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. No. M-1856 of 2015
Date of Decision: 17.9.2015

Gurdeep Singh

--Petitioner.

Vs.

State of Punjab

--Respondent.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. K.D.Sachdeva, Additional A.G. Punjab.

Mr. B.S.Jaswal, Advocate
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No. 341 dated 19.12.2014 under Sections 406/420 IPC registered at Police Station Tanda, District Hoshiarpur.

Notice of motion was issued and interim protection was granted.

On the last of hearing, i.e.3.9.2015, following order was passed by this Court:-

Petitioner seeks pre-arrest bail in FIR No.341 dated 19.12.2014 registered under Sections 406 and 420 of the Indian Penal Code, at Police Station Tanda, District Hoshiarpur.

Notice of motion was issued vide order dated 19.01.2015 and interim protection was granted to the petitioner vide order dated

12.02.2015.

During the course of hearing, it has transpired that there is serious dispute between the parties whether complainant- Satnam Singh, as a matter of fact, paid an amount of Rs.7,20,000/- to the petitioner for sending his son abroad. Petitioner is also denying the agreement dated 18.08.2014 which has been signed by both the parties, beside other respectables wherein petitioner-accused agreed that he has received an amount of Rs.7 lacs from the complainant- Satnam Singh. He has undertaken to return the said amount. However, learned counsel for the petitioner submits that the petitioner was made to sign on the blank paper in the police station and because of this reason, he made a complaint against the SHO of the Police Station Tanda, District Hoshiarpur.

In view of the above, Senior Superintendent of Police, Hoshiarpur is directed to look into the matter and shall file his own affidavit along with action taken report on or before the next date of hearing.

List on 17.09.2015.

Interim order to continue.”

In compliance of the abovesaid order, reply by way of affidavit dated 16.9.2015 of the Senior Superintendent of Police, Hoshiarpur, filed in the Court today, is taken on record and copy thereof has been supplied to the learned counsel for the petitioner.

Learned counsel for the petitioner submits that petitioner and complainant are close relatives and because of that reason, petitioner has been falsely implicated in the present case. He further

submits that petitioner is not liable to pay any amount to the complainant. One son of the complainant is already staying abroad and there was no occasion for the complainant to send his second son out of country. Since the allegations levelled against the petitioner are factually incorrect, no case under Sections 406/420 IPC is made out against him. Petitioner has already joined the investigation and his custodial interrogation is not required. He prays for allowing the present petition.

On the other hand, learned counsel for the State as well as learned counsel for the complainant oppose the present petition contending that petitioner has defrauded his close relative by receiving a huge amount of ₹7,20,000/- for sending the second son of the complainant abroad. Neither petitioner has sent son of the complainant abroad, nor he returned the amount. They submit that petitioner paid only an amount of ₹20,000/- and that too, by way of a cheque, but remaining amount of ₹7 lacs has not been returned by the petitioner so far. They concluded by submitting that in view of these peculiar facts and circumstances of the case, a clear case under sections 406/420 IPC has been made out against the petitioner. Learned counsel for the State also submits that since interim anticipatory bail has been granted by this Court in favour of the petitioner, he intentionally did not cooperate with the investigating agency, because of which his custodial interrogation is required. They pray for dismissal of the present petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful

consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has not been found entitled for the concession of pre-arrest bail. It is so said, because petitioner is the only accused. Allegations against petitioner are direct and serious. Misusing the concession of interim anticipatory bail granted by this Court, petitioner did not cooperate with the investigating agency. In such a situation, it can be safely concluded that since the protected investigation has brought no fruits, custodial interrogation of the petitioner is required.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the rights of either of the parties, this Court is of the considered view that custodial interrogation of the petitioner will be a compulsive necessity of the investigating agency, so as to conduct an effective investigation. No case for anticipatory bail has been made out.

Dismissed.

(RAMESHWAR SINGH MALIK)
JUDGE

17.9.2015
AK Sharma