IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6470 of 2015
Date of Decision: 10.04.2015

Malkiat Singh ....Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. L.M. Gulati, Advocate
for the petitioner.

Mr. Y.K. Gupta, AAG, Punjab

*****

SNEH PRASHAR, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure (Cr.P.C.) for grant of anticipatory bail to the petitioner in case FIR No.11 dated 01.02.2013, under Section 379 of the Indian Penal Code registered at Police Station, “E” Division, Amritsar, District Amritsar City.

2. The allegation of complainant-Sant Yogeshvaranand Param Hans was that a cheque bearing No.011434 dated 23.03.2012 drawn on HDFC Bank Branch, Machhiwara which had been signed by him was lost from his possession. Being busy he could not inform his bank about the loss of the cheque. After he went to Canada he was informed by the Branch Manager HDFC Bank that a cheque issued by him had been encashed in some paying account and an amount of Rs.8,30,000/- had been transferred on 08.06.2012. The complainant stated that he had

RASHMI
2015.04.23 09:59
I attest to the accuracy and
integrity of this document

been defrauded by means of lost cheque by Malkiat Singh (petitioner) who was neither known to him nor he had issued the cheque in his name but he had fraudulently got an amount of Rs.8,30,000/- transferred to his own account.

Apprehending his arrest the petitioner filed a petition for anticipatory bail which was dismissed by Additional Sessions Judge, Amritsar vide order dated 11.02.2015.

3. Heard the submissions made by Mr. L.M. Gulati, Advocate representing the petitioner and Mr. Y.K. Gupta, AAG, Punjab representing the State.

4. Learned counsel for the petitioner submits that it was on the instructions of the complainant that the cheque was presented by the petitioner to the Bank. Infact an amount of Rs.9,00,000/- was paid by the petitioner to the complainant for taking him abroad. Despite payment of such huge amount, the complainant was unable to perform his part of the promise and it was on his constant request that the complainant had given him the cheque dated 23.03.2012 of the amount paid to him. Learned counsel also submitted that registration of the First Information Report was not in the notice of the petitioner. He had never been served with any notice and without complying with the provisions of law, the petitioner had been declared proclaimed offender on 28.01.2015. Submitting that the petitioner is ready to join investigation, learned counsel sought his release on anticipatory bail.

5. The application is opposed by learned State counsel. He

RASHMI
2015.04.23 09:59
I attest to the accuracy and
integrity of this document

submitted that during inquiry the petitioner was called several times by the police authorities but he kept avoiding the inquiry proceedings. He also submitted that the money of which the complainant had been defrauded is to be recovered from the petitioner.

6. Prima-facie, it is not being denied by the petitioner that through the cheque in question he had got transferred an amount of Rs.8,30,000/- from the account of the complainant to his own account. The allegation of the complainant is that he had lost the cheque which was used by the petitioner for getting the amount transferred. At this stage nothing has been produced by the petitioner to indicate that the cheque had been issued by the complainant to return the amount of Rs.9,00,000/- paid by him. No date or month in which the amount was paid had been mentioned in the application. It is not only the allegation of the police that the petitioner was avoiding to join inquiry, it is also a fact that the petitioner has since been declared proclaimed offender by the learned Judicial Magistrate First Class, Amritsar vide order dated 05.04.2014. In view of his conduct and there being serious allegations against the petitioner, the application of the petitioner for anticipatory bail is hereby dismissed.

(SNEH PRASHAR)

April 10, 2015 **JUDGE**

rashmi

RASHMI
2015.04.23 09:59
I attest to the accuracy and
integrity of this document