

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

CRM-M-8691-2015

Date of decision: 12.5.2015

Sandeep Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RP Singh, Advocate for the petitioner

Mr.Ashish Sanghi, DAG, Punjab

Mr.Ajay Singla, Advocate for the complainant

SNEH PRASHAR, J.

The instant petition under Section 438 of the Code of Criminal Procedure has been filed for grant of anticipatory bail to the petitioner in case First Information Report No.168 dated 9.10.2014 registered under Sections 420, 406 of the Indian Penal Code at Police Station City Gurdaspur, District Gurdaspur.

The allegations against the petitioner are that he was running a business of immigration and travel agency under the name and style of Harsim Immigration and Consultancy. He took a friendly loan of Rs.5 lacs from the complainant in the year 2011 with a promise to return the same within few days. To discharge his liability, he issued two cheques amounting to Rs.2.5 lac each, but when these cheques were presented in the bank for encashment, the same were returned unpaid

due to insufficient funds in the account of the petitioner. Later on with the intervention of the respectables the matter was settled and the petitioner took an amount of Rs.3.4 lacs more from the complainant with a promise that he will arrange permanent resident Visa for Canada for him and his family members and will purchase the tickets etc. However, the petitioner did nothing and despite several requests made by the complainant, he issued five cheques in his favour, but when the cheques were presented in the bank, all were dishonoured due to insufficient funds in the account of the petitioner.

Submissions made by Mr.RP Singh, Advocate representing the petitioner; Mr. Sanghi, Deputy Advocate General, Punjab appearing for the State and Mr.Ajay Singla, Counsel representing the complainant. have been heard.

It is submitted on behalf of the petitioner that there is no proof of loan given to him by the complainant. The petitioner is a tenant under the complainant and with a view to get premises vacated, he used the two cheques which were given to him by the petitioner as security. He further submitted that in case the earlier loan amount had not been repaid by the petitioner, there was no occasion for the complainant to give Rs.3.4 lacs more to the petitioner. Regarding the five cheques, which were dishonoured, the petitioner is already facing trial under Section 138 of the Negotiable Instruments Act. The cheques were in fact misused by the complainants to settle the scores.

On the other hand, learned counsel for the State opposed the prayer of the petitioner and submitted that from the investigation, it has

been culled out that the petitioner had taken a sum Rs.8.4 lacs from the complainant to send him and his family abroad, which are yet to be recovered from the petitioner.

The learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur had allowed interim bail to the petitioner but it is mentioned in his order that the petitioner did not cooperate in investigation and the recovery could not be effected.

Admittedly, five cheques were issued by the petitioners in favour of the complainant which on presentation in the Bank were dishonoured. Prima facie that supports the allegations of the complainant. It is not the case that the petitioner had ever reported to any authority regarding misplacement or misuse of the cheques in question. Apparently, neither the amount given by the complainant has been returned nor the petitioner had been cooperating in investigation. For recovery of the amount, the custodial interrogation of the petitioner will be required.

Resultantly, finding no ground for release of the petitioner on anticipatory bail, his bail petition is hereby dismissed.

12.5.2015
gsv

(SNEH PRASHAR)
JUDGE