

CRM-M No.18252 of 2016 (O&M)

::1::

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.18252 of 2016 (O&M)

Date of decision : 14.09.2016

Kulbir Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Arshdeep Bhullar, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. AG, Punjab.

Mr. G.N.Malik, Advocate for the complainant.

AJAY TEWARI, J. (Oral)

On 25.05.2016, the following order was passed :-

“Prayer is for grant of anticipatory bail to accused petitioner-Kulbir Singh in case FIR No.193 dated 16.10.2015 under Sections 420,408 IPC, PS Phase I,Mohali,Punjab.

Complainant-Noor Mohd., is stated to have handed over a sum of Rs.35 lacs to his employee/co-accused Baljinder Singh to handover the same to a dealer at Delhi. The said co-accused Baljinder Singh thereafter vanished

with the money. Father and brother of said Baljinder Singh were also nominated as accused. Name of the petitioner has surfaced in the disclosure statement of principal accused-Baljinder Singh as having received portion of the mis-appropriated amount.

It is contended that even if allegations of receiving money are taken to be true still no offence would be made out against the petitioner as there is no prior meeting of minds.

Notice of motion for 3.8.2016.

Till the next date, In the event of arrest, the petitioner shall be released on bail on furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer. Petitioner shall appear before the I.O., as and when called upon for investigation and shall also be bound by all the conditions stipulated in Section 438(2) Cr.P.C.

To be heard with CRM-M 38740/2015 .”

As per allegation the main accused-Baljinder Singh was the employee of the complainant-Noor Mohd. Noor Mohd., had given him a sum of Rs.35.00 lacs to be handed over to a dealer at Delhi. However, Baljinder Singh absconded with the money alongwith his father and brother.

In this case Baljinder Singh was arrested after about 6 months and during investigation it transpired that for this entire time he

had been staying with the petitioner and it was his claim that the major chunk of the money of Rs.25.00 lacs is lying with the petitioner.

Learned counsel for the petitioner has argued that apart from the disclosure statement of the co-accused there is no evidence against the petitioner and thereafter this Court granted interim order in his favour. He has repeatedly joined the investigation and consequently his custodial interrogation should not be insisted upon.

On the other hand learned counsel for the complainant and the learned Additional Advocate General have alleged that the involvement of the petitioner with the main accused-Baljinder Singh is established also by way of call details because they were repeatedly in touch with each other throughout the entire episode.

Learned counsel for the complainant has suggested that if as the petitioner is claiming that he is being targeted only because he is a powerful man it would be appropriate if he makes a fixed deposit of the amount and then be given the benefit of bail and amount be released to the complainant if it is proved that the petitioner was a conspirator and had the money.

Learned Additional Advocate General, on instructions from SI Ram Darshan has also stated that this would be a fair solution because then atleast the money would remain safe and in case the

petitioner is found innocent the same would be returned to him alongwith interest. In case the petitioner is not proven guilty same would be returned to him alongwith interest.

Learned counsel for the petitioner is not in a position to controvert these arguments.

In the circumstances, it is stated that the petitioner shall create a fixed deposit in favour of the Chief Judicial Magistrate, Mohali and in case he is not proven to be guilty the said amount alongwith the interest thereon will be released to him. It is also clear that this deposit is in no sense to be taken as admission of liability but would be only a deposit to enable the petitioner to get bail. It is further made clear in case necessary fixed deposit is not made within 3 months the present petition be deemed to be dismissed.

Petition stands disposed of.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

14.09.2016

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No