

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-33238 of 2016

Date of decision:- November 28, 2016

VIJAY KUMAR

.....PETITIONER..

VS.

STATE OF PUNJAB

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Munish Puri, Advocate,
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

JASPAL SINGH, J. (Oral)

Through present petition preferred under Section 438 of the Code of Criminal Procedure, Vijay Kumar-petitioner has sought pre-arrest bail, feeling apprehension of his arrest, in case bearing FIR No.36, dated 14.04.2016, under Sections 420, 467, 468 and 120-B IPC, Police Station Sujanpur, District Pathankot.

2. At the time of issuance of notice of motion on 20.09.2016, following order was passed by this Court:-

“Inter-alia, it has been contended by learned counsel for the petitioner that petitioner Vijay Kumar has been dragged in the instant case just being a relation of Narinder Kumar. Even otherwise, there is no evidence collected by the Investigating Agency is to connect him with the commission of the offence complained of. There is no specific allegations against him. An inquiry was also conducted by Sub-Inspector

Gorakh Nath, Economic Offence Cell, Pathankot, in which, it has emerged that Narinder Kumar resident of Delhi and Ajay Kumar son of Ramesh Kumar resident of Quarter No.8, Railway Station, Madhopur, in connivance with each other, obtained a sum of Rs.2 lac from Mohinderpal son of Ram Dass. Not only this, even aforesaid Ajay Kumar also executed written agreement in favour of Mohinderpal-complainant to the effect that he has received a sum of Rs.1,35,000/- from Mohinderpal and he will repay the same. Even in the enquiry there is no role assigned to the petitioner.

Notice of motion for 18.11.2016.

In the meanwhile, petitioner is directed to join the investigation. In the event of arrest, petitioner shall be released on interim bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions envisaged under Section 438(2) Cr.P.C.”

3. At the very outset of the arguments, it has been submitted by learned State counsel on instructions from ASI Deepak Kumar that in compliance of order dated 20.09.2016, the petitioner has already joined the investigation.

4. However, learned State counsel has opposed the pre-arrest bail of the petitioner and contends that the amount involved in this case is still requires to be recovered. But, it is yet to be established whether the amount was actually handed over to the petitioner, especially, in view of the fact that co-accused of the petitioner namely Ajay Kumar has already executed an agreement with complainant-Mohinderpal to the effect that he has received a sum of ₹1,35,000/- from him (Mohinderpal) and he will repay the same by 10.02.2016. More so, for recovery of amount, if any, the complainant would be at liberty to approach Civil Court.

5. Taking into consideration the aforesaid aspects of the case but without expressing any opinion on the merits, the petition is allowed and order dated 20.09.2016 is made absolute and shall enure during the pendency of trial but subject to the conditions provided under Section 438 (2) Cr.P.C.

November 28, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reasonable: Yes/No