

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on : September 16, 2016

+ BAIL APPLN. 1748/2016
RAMNEEK SINGH

..... Petitioner

Through: Mr. M.S. Ahluwalia, Mr. Pramod
Gupta, Advocates

versus

STATE

..... Respondent

Through: Ms. Manjeet Arya, Additional Public
Prosecutor for the State with Sub-
Inspector Vinay Kumar, Police
Station Dwarka North, New Delhi

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. By this petition filed under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr. P.C.), the petitioner seeks anticipatory bail in a case registered as FIR No. 306/2016 under Section 420/34 of Indian Penal Code, at Police Station Dwarka, Delhi.

2. The instant complaint has been lodged at the instance of one Amit Gupta, owner of BL Jewellers Pvt. Ltd. Dwarka against the petitioner, his mother and father. It is alleged in the complaint that on 24.05.2016 at around 5.30 PM, Mandeep Kaur, (mother of the

petitioner herein) came to his shop and purchased jewellery worth Rs.33,55,400/- and issued two post dated cheques bearing Nos. 000011 dated 28.05.2016 for an amount of Rs.14 lacs and Cheque No.000013 dated 30.05.2016 for an amount of Rs.10 lacs. The balance amount of Rs.9,55,000/- was assured to be paid within 2-3 hours. When nobody turned up for payment of the balance amount, the complainant filed a police complaint on 27.05.2016, which later on registered as FIR under Section 406/34 of IPC. Since the post dated cheques issued by Mandeep Kaur were dishonoured due to insufficient funds, the notice dated 04.06.2016 under Section 138 of Negotiable Instruments Act, 1881 was served upon the mother of the petitioner. The petitioner had preferred anticipatory bail before the learned Additional Sessions Judge, which was declined vide order dated 14.07.2016. However, Mandeep Kaur had surrendered before the learned Metropolitan Magistrate, Dwarka, Delhi on 22.07.2016 and since then, she is in judicial custody and on the other hand, the father of the petitioner has moved an application for surrender-cum-bail before the concerned Court. It is informed that the NBWs have been issued against the petitioner vide order dated 27.07.2016. Now the petitioner has preferred the instant bail application before this Court.

3. Learned counsel appearing on behalf of the petitioner contended that the petitioner is falsely implicated in the present case just to teach a lesson to main accused and to spoil the life and career of the petitioner. It is further contended that in fact the petitioner was

present in his Garment Shop alongwith three employees, since 1 PM to 8.30 PM and remained present at Cash Counter of the shop. To support his contention, the petitioner has also filed on record the affidavit of three employees. It is further informed that in fact the car was driven by the Driver and not by the petitioner. The petitioner has nothing to do with the present case and all the allegations made in the complaint are false and fabricated.

4. Learned counsel for the petitioner vehemently contended that the police has not verified the call details of mobile of Mandeep Kaur and the petitioner, which were given by the petitioner to the Investigating Officer on 26/27.05.2016, when the main accused Mandeep Kaur was found missing and missing report in that regard was also lodged in the police. For ensuring the presence of the petitioner at the shop of the petitioner, it is contended that the Investigating Officer has not taken out any CCTV footage installed just outside the shop of the petitioner or from the CCTV installed adjacent outside the verandah of the shop next to the shop of the complainant.

5. It is further submitted on behalf of the petitioner that on one hand, the complainant filed a complaint under Section 138 of Negotiable Instruments Act, 1881 and served a notice upon Mandeep Kaur 04.06.2016 and the FIR was registered on 15.06.2016 and in this way, the complainant has not waited for reply to the notice, which is clearly in violation of the procedure of Section 138 of Negotiable Instruments Act, 1881. Lastly it is contended that the petitioner is an

innocent person, and has already joined the investigation on 03.07.2016 and the main accused Mandeep Kaur is already in jail for more than 30 days and apart from the aforesaid, father of the petitioner has also moved an application for surrender-cum-bail before the concerned Court and nothing is required to be recovered at the instance of the petitioner. Therefore, no custodial interrogation is required. Moreover, the petitioner is ready to join the investigation as and when directed. In such a situation, the petitioner ought to be granted anticipatory bail in this case.

6. Learned Additional Public Prosecutor appearing on behalf of the State submits there are specific allegation of the complainant that it was petitioner who handed over the cheque book to his mother Mandeep Kaur and who had issued two post dated cheques and handed over to one Sarvesh (worker of the complainant). It is further submitted that the complainant was assured that within 2-3 hours either petitioner or his father will come to pay the balance amount in cash. It is informed that the incident is of 24.05.2016 and there is a missing report dated 27.05.2016 regarding Mandeep Kaur, lodged by her husband Charanjeet Singh, at Police Station Dwarka North, Delhi. While referring to the CCTV footage obtained from the complainant's showroom it is submitted that the same clearly shows the entry of Mandeep Kaur, purchasing the jewellery and keeping the same in her hand bag; taking bill issued by the complainant.

7. Lastly, it is informed that the family of the petitioner is habitual cheater and there are certain more complaints filed by other ladies

regarding cheating in the kitty. Even in the reply to notice under Section 138 of Negotiable Instruments Act, 1881, it is replied that Mandeep Kaur neither visited the complainant's shop on the date of incident nor had purchased any jewellery, though the CCTV footage shows the presence of the accused while entering the showroom and purchasing the jewellery. It is further submitted on behalf of the State that the modus operandi of the family of petitioner that they show off that they are businessman and owners of flat and shop in Delhi and also having farmhouses in Kashmir and induce the innocent people to cheat them to rob them of with their hard earned money. Custodial interrogation is sought and prayed that the present application moved by the petitioner be rejected.

8. I have heard the contentions raised by counsel for the petitioner as well as the submissions made by learned Additional Public Prosecutor for the State.

9. After going through the contents of the petition and the facts and circumstances of the case, the admitted facts are that the main accused Mandeep Kaur has been arrested and is in judicial custody since 22.07.2016; father of the petitioner has moved an application for surrender-cum-bail before the concerned Court; the petitioner had already joined the investigation and there is no averment on behalf of the State and that the petitioner has not cooperated in the investigation in any manner whatsoever. On the contrary, the petitioner had alleged certain discrepancies and lapses on the part of the complainant as well as by the investigation agency, which of course are the subject matter

of trial before the concerned Court.

10. This Court also observes that this is a dispute regarding sale and purchase of jewellery against which the main accused Mandeep Kaur had given post dated cheques to the complainant, which later on got dishonoured. This Court further observes that the complainant was assured that the balance amount shall be paid within 2-3 hours on 24.05.2016 i.e., the date of incident, but nobody turned up, after which, on one hand, the complainant had lodged the criminal complaint against the accused before the concerned police station and on the other hand, he also initiated proceedings under Section 138 of Negotiable Instruments Act, 1881 and without waiting for statutory period of reply of 15 days, the present FIR was got registered against the main accused Mandeep Kaur alongwith her husband and son.

11. In view of the aforesaid discussion and the fact that the main dispute is regarding non-payment of purchased price of the jewellery by Mandeep Kaur and the fact that the role attributed to the petitioner in the present case is of handing over the cheque book to the main accused, which is also controverted by the petitioner in his submissions and that would be decided during trial, this Court is inclined to grant anticipatory bail to the petitioner – Ramneek Singh. Accordingly, the petitioner – Ramneek Singh is directed to join the investigation as and when directed by notice in writing and to cooperate in the investigation and in the event of arrest, the petitioner – Ramneek Singh be released on bail subject to furnishing their personal bond in the sum of Rs.30,000/- each with two sureties of the

like amount to the satisfaction of the Investigating Officer.

12. The petitioner is further directed not to tamper with the evidence, not to influence the prosecution witnesses and not to leave the country without prior permission of the Court concerned.

13. It is made clear that any observations made hereinabove, shall not have any bearing on the merits of the case.

14. In view of the aforesaid directions, the present bail application is disposed of.

Dasti.

(P.S.TEJI)
JUDGE

SEPTEMBER 16, 2016
pkb