

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

CRM-M-24193 of 2017

Date of decision: 12.7.2017

Mohan Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr. Vishal Goel, Advocate
for the petitioner.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner Mohan Lal, accused in FIR No.0023 dated 14.4.2017 for offences under Sections 420/120-B IPC, registered with Police Station Bakshiwal, District Patiala.

FIR in question was registered on the basis of a written complaint submitted by complainant Darshan Singh son of Sh.Sajjan Singh, resident of village Ramgarh Chhanna, Tehsil Nabha, District Patiala dated 28.3.2007 addressed to Senior Superintendent of Police, Patiala wherein he had contended that he was having good relations with Mohan Lal son of Mani Ram who is running kiriyana shop at village New

Rakhra; that Mohan Lal had raised a loan from him and towards discharge of said liability, he with *mala fide* intention and conspiracy with his wife Paramjit Kaur and brother Ram Dev issued cheque No.620558 dated 18.8.2016 from his Saving Account No.SB 1532 with Punjab and Sind Bank, Nabha Road, Rakhra in the sum of Rs.6,70,000/- assuring that on presentation, the cheque would be encashed. However, it did not happen and rather cheque was dishonoured and was returned to complainant with the report of the bank that account was closed.

Inter alia, in the complaint, it is contended by the complainant that he inquired from the bank and came to know that above-said cheque book had been issued by the bank to his (Mohan Lal's) brother Ram Dev. The complainant had levelled allegations against Bhinder Singh, Manager of the bank being part of the conspiracy along with Mohan Lal, Ram Dev and Paramjit Kaur alleging that as a result of the said conspiracy between them, the cheque was issued to commit fraud and cheat him and to deprive him of his valuable money. The matter was inquired into and thereafter formal FIR in question was registered.

Apprehending his arrest in this case, Mohan Lal accused had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court learned Additional Sessions Judge, Patiala vide order dated 3.7.2017. As such he has approached this Court asking for similar relief.

Notice of the petition was given to complainant and Sh.M.S. Viridi, Advocate has appeared in the Court on his behalf, whereas State is being represented through Sh.K.S. Aulakh, DAG, Punjab.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the petition.

It is not a simple case of cheque bouncing for which the remedy for the aggrieved person lies in filing a complaint under Section 138 of the Negotiable Instruments Act in the Court of Magistrate having jurisdiction, rather it is a case where the accused tried to be over smart and issued a cheque from the cheque book not belonging to him but to his brother and the cheque had not been encashed. Of course, the *mala fide* intention of the accused can clearly be inferred from his such conduct. It is difficult to believe that petitioner was not aware of the fact that the cheque which he was signing and issuing to the complainant did not belong to him but to his brother. Such act and conduct on the part of petitioner clearly disentitles him to concession of pre-arrest bail. His custodial interrogation is definitely required to unfold the complete story as to how and under what circumstances, he had signed the cheque relating to the bank account not belonging to him but to his brother and as to how the conspiracy was entered into and carried out. Role of petitioner and other persons in the conspiracy is also to be probed thoroughly. Admittedly custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

12.7.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No