

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

**Crl. Misc. No.M-3469 of 2017 (O&M)
Date of Decision: November 07, 2017**

Rajesh Kumar

.....PETITIONER(s).

VERSUS

State of Haryana

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arun Sharma, Advocate
for the petitioner (s).

Mr. Ashish Yadav, Addl.A.G. Haryana.

Mr. Maninder S. Punia, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.795 dated 16.12.2016 registered for the offences punishable under Sections 406, 420, 506 of Indian Penal Code, at Police Station Assandh, District Karnal.

Heard.

The FIR was registered on the complaint of Subhash Chand, wherein, he stated that petitioner has committed fraud with him in the year 2011. He had taken ₹11 lakh from him on 04.01.2012. Again on 02.02.2015, he had taken ₹20,78,660/- to get the complainant and his brother Sukhdev Singh recruited as Driver and Constable respectively in

BSF. Thereafter, a *panchayat* was held and the petitioner agreed to return the money taken by him with interest. He had, however, not returned that amount. Thereafter, on the asking of petitioner, complainant sold his tractor for ₹4,20,000/- and this money was also taken by the petitioner. There was property dispute of the complainant with another party in which the petitioner became mediator and got the compromise effected. He took ₹5 lakh from the complainant with the promise to return the entire amount as his loan of ₹50 lakh was waiting clearance. Thereafter, petitioner took ₹3,54,000/- to get recruited his brother-in-law (wife's brother) in BSF.

From the allegations in the complaint, it appears that the complainant had alleged his cheating from the year 2011 onwards. About the advancement of ₹11 lakh to the petitioner, complainant got executed a pronote and receipt and a writing in the shape of agreement, copies of which have been placed on file. Thereafter, a writing took place between the parties on 01.08.2015, wherein after calculating outstanding principal and interest, the outstanding amount was found as ₹20,78,660/-, which the petitioner agreed to pay. Copy of that writing has also been placed on file.

It is a case where the Investigating Officer has to look into the genuineness of the allegations of the complainant and to find as to whether despite repeated cheatings, complainant had been giving money to the petitioner. So far as the advancement of ₹11 lakh is concerned, this amount was secured by way of pronote and receipt. The interest on the amount of ₹11 lakh was settled as 2% which after expiry of four years comes to 96% of the principal amount. Investigating Officer has to inquire into the allegation as to whether the amount of ₹20,78,660/- alleged to have been given by the

complainant on 02.02.2015 is the amount of pronote with interest. He has also to look into as to whether after repeated cheatings, complainant has been relying on the petitioner and making further payments or it is a civil dispute in between the parties relating to money advanced vide pronote and receipt dated 04.01.2012.

Keeping in view the above facts but without expressing any opinion on the merits of the case, I find that custodial interrogation of petitioner, to verify the allegations in the complaint, is not required. This petition is allowed and order dated 02.02.2017 is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioner shall make himself available for interrogation by the police as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall not leave India without the prior permission of the Court.
- (iv) that the petitioner will seek regular bail on the presentation of challan in Court, which the trial Court will decide on the basis of evidence collected during investigation.

The amount of ₹2 lakh which has been paid to the complainant, will be adjusted in the outstanding amount found due against the petitioner.

November 07, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No