

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7349-2017 (O&M)

Date of decision: March 17, 2017.

Gopi Khan

... **Petitioner**

v.

State of Haryana

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Rajkpoor Malik, Advocate for the petitioner.

Ms. Tanushree Gupta, Deputy Advocate General, Haryana.

A.B. Chaudhari, J. (Oral):

Heard Learned counsel for the petitioner at length. With his assistance, I have seen the ledger statement of the bank account. It is seen that from 29.10.2015 the account shows entry of credit of amount of Rs.3,58,575/-. Learned counsel for the petitioner submits that someone else who has deposited the amount in his account and therefore he cannot be held responsible. There may be force in this contention that the petitioner may not be knowing who has deposited the amount of Rs.3,58,575/-,. However, there is a first withdrawal on the next date of an amount of Rs.1.50 lacs and thereafter repeated withdrawals for the total amount.

The submission made by Learned counsel for the petitioner that the withdrawals made were also without his knowledge and consent is nothing but hoax as there are large number of withdrawals from 30.10.2015 till 20.11.2015 clearly indicating that it is the petitioner who himself was consciously a party to all withdrawals under his signatures knowing fully well that Rs.3,58,575/- never belonged to him. During investigation, it had

come out that the brother of the petitioner was employed with the complainant Mahindra and Mahindra Finance Company and it is he who had committed forgery and deposited the amount in the account of the petitioner. Prima facie, the petitioner is guilty of substantive offences read with Section 34 IPC for having the common intention with his brother. The petitioner was given an offer to repay the entire amount to the finance company since he had withdrawn the amount at the relevant time and the petitioner could have easily, as a responsible citizen, repaid the amount but he has shown his inability to repay the same.

In that view of the matter, I do not think that the petitioner is entitled to the grant of relief of anticipatory bail. Learned counsel for the petitioner, on instructions, states that the petitioner would not be in a position to pay back the amount since it was given to his brother Shokeen Khan. That cannot be a reason to extend the relief of anticipatory bail since the petitioner has indulged into commission of the offences. In that view of the matter, prayer for anticipatory bail is rejected. Liberty is reserved in favour of the petitioner to apply for regular bail. In case, such an application is filed, the same shall be decided as expeditiously as possible and in any case within 15 days from filing of the bail application.

March 17, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No