

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101

CRM-M-11221-2018

Date of Decision: March 19, 2018

Sohan Lal

.....Petitioner.

versus

State of Punjab

.....Respondent.

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. B.K. Mehta, Advocate
for the petitioner.

Sudhir Mittal, J. (Oral)

The petitioner seeks anticipatory bail in FIR No.352, dated 29.11.2017, registered at P.S. City Ferozepur, under section 420, 120-B IPC.

2. Mr. Piyush Aggarwal, Advocate, puts in appearance on behalf of the complainant by filing his *Vakalatnama* in Court today and the same is taken on record.

3. As per the contents of the FIR, the petitioner in connivance with one Chiman Lal, presented a stolen cheque of the complainant which was from an account that stood already closed. The said cheque was allegedly stolen by Chiman Lal, who had been employed as a Manager with the complainant. The complainant had filed an FIR against Chiman Lal in the year 2011 for having stolen blank signed cheques of the complainant, which was ultimately compromised and on the basis thereof, the same was quashed. Presently, the allegation is that despite the assurance of Chiman Lal that the stolen cheque would not be misused, a cheque has been

presented in connivance with Sohan Lal, which has led to the summoning of complainant under section 138 of Negotiable Instruments Act, 1881.

4. Learned counsel for the petitioner has contended that the ingredients of Section 420 IPC, are not made out and that the petitioner has been appearing before the Police as and when he has been called. Further, the evidence in this case is documentary in nature. The petitioner is 70% disabled as his left leg below the knee has been amputated. In view of the above circumstances, custodial interrogation of the petitioner is not required.

5. On the other hand, learned counsel for the complainant submits that dishonest intention is writ large as a cheque which was stolen in the year 2008 has been presented in the year 2016. The petitioner is admitted known to the complainant and therefore, it cannot be believed that he was not aware of the fact that the firm of the complainant which has allegedly issued the cheque was already closed. This also shows that the dishonest intention of the petitioner. Since the cheque was presented with a dishonest intention, criminal intent is established and therefore, the petitioner does not deserve grant of anticipatory bail.

6. From the facts brought out by the learned counsels, it is clear that a cheque of a firm, which was closed in the year 2009, has been presented in the year 2016. It is an admitted fact that the petitioner and the complainant are known to each other and therefore, relations extend to over ten years. The case of the petitioner is that he had advanced a friendly loan to the complainant and the cheque was issued to him by the complainant in discharge of his legal liability. He states that he was not aware of the fact that the firm on which the cheque was drawn stood closed wayback in the year 2009. It is also not in dispute that the entire evidence is documentary in nature and is part of record produced before the competent Court and therefore, is not likely to be tampered with.

controversy between the parties and also keeping in view the fact that the petitioner is a disabled person and that he has always presented himself before the Police as and when required, I am of the opinion that his custodial interrogation is not necessary.

8. Thus, the petition is allowed. The petitioner is directed to join investigation as and when required by the Police and to cooperate therewith. In case of his arrest, he shall be released on anticipatory bail on his furnishing bail and surety bonds to the satisfaction of the arresting officer/I.O./SHO concerned subject to his compliance of conditions enshrined under Section 438(2) Cr.P.C.

9. The prosecution would however be at liberty to seek cancellation of bail in case the circumstances so require.

March 19, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No