

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No.M-11349 of 2018 (O&M)
Date of decision : 25.07.2018

Harjit Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. D.R.Punia, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Hardeep S.Sandhu, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J.(Oral)

The petitioner has preferred the instant petition under Section 438 Cr.P.C. for grant of pre-arrest bail in case FIR No.08 dated 11.01.2018, registered under Sections 420, 174, 120-B IPC at Police Station PAU, Ludhiana.

It is a case of prosecution that one Kamal Malwa alias Yoyo was known to complainant as he used to work at his dhaba. Said Kamal Malwa induced the complainant to purchase House No.23, measuring 250 square yards, in Village Barewal Awana, Abadi Mohan Nagar, Ludhiana. He assured the complainant with regard to ownership. Then said Kamal Malwa introduced the complainant to Harjit Singh as well as to Paramjit Singh. Both of them showed the property in question to the complainant. Thereafter, petitioner as well as Paramjit Singh brought a lady and introduced the complainant being the real owner of the said property.

Infact, she was not the real owner rather said lady impersonated. A sale

deed was executed but later on it came to the notice of complainant that the said lady was impersonated. On the instigation of the petitioner and his associates, the house has been purchased by the complainant. Even the petitioner stood as an attesting witness and he impersonated one Sheelu as Sarita. The petitioner along with his associates duped huge amount from the complainant and they have not returned the same.

The remedy of anticipatory bail is extraordinary and should be used in exceptional cases. The Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others*** 2011 AIR (SC) 312 pleased to issue the following parameters:-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a*

balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

Keeping in view the seriousness of the offence, the petitioner is required for custodial interrogation. As such, no case to grant the concession of anticipatory bail to the petitioner is made out.

Accordingly, the instant petition stands dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

25.07.2018
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No