

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

Sr. No.206

**CRM-M-16525-2017
Date of decision : 21.03.2018**

Jagbir Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. G.S. Sirphiki, Advocate, for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. L.S. Lakhanpal, Advocate, for respondent No.2.

SUDHIR MITTAL, J.

The complainant-petitioner, namely, Jagbir Singh son of Ajit Singh, filed a complaint dated 23.09.2016 with Police Station Division B, Amritsar, resulting in registration of FIR No.156 dated 30.09.2016, under Sections 406, 420 and 120-B IPC.

2. According to the contents of the FIR, the accused persons (including respondent No.2) defrauded the complainant and his family of Rs.17,25,000/- on the pretext of investing the same and giving huge returns in lieu thereof. Cheques were also issued by way of security on the rear of which it was mentioned that the same were being issued as security against investment made. The complainant was promised a return of Rs.4,000/- per month and initially the said amount was paid, but after November, 2015, the payment stopped. Even, the principal amount was not returned on demand. A large number of people have been duped

by the accused out of whom eleven persons have been identified by the complainant, who have been cheated of an amount of Rs.97,55,000/-.

3. Respondent No.2 was arrested on 08.02.2017. Vide order dated 14.03.2017 (Annexure P-4), the learned trial Court released him on regular bail on the ground that challan had yet not been presented in Court. Usual conditions were also imposed.

4. Hence, the present petition has been filed seeking cancellation of bail granted to respondent No.2 by the trial Court.

5. Learned counsel for the petitioner submits that respondent No.2 is one of the main accused and his signature is present on many of the cheques issued by way of security. He and his co-accused have duped the gullible public of its hard earned money. Thus, a very serious offence has been committed by respondent No.2, but the learned trial Court has granted bail without application of mind and by passing a non-speaking order. It would, therefore, be appropriate to set aside order dated 14.03.2017 (Annexure P-4) and cancel the bail granted to respondent No.2.

6. Learned State counsel supports the plea of the petitioner. He further submits that a Special Investigation Team has been constituted to investigate this case.

7. Learned counsel for respondent No.2-accused however, submits that the said respondent has not violated any of the conditions of the bail set by the learned trial Court nor has he misused the said concession. The FIR has been registered in a hasty manner and the preliminary inquiry was not conducted properly. Bail is the rule and jail

is an exception and therefore, there is no illegality in the impugned order. Moreover, co-accused, namely, Satnam Singh, has also been granted regular bail by the learned trial Court after twenty eight days of custody.

8. At first blush, it may appear that the order of the learned trial Court was hasty, but on careful perusal it is revealed that the learned trial Court did apply its mind while passing the impugned order. The said order is dated 14.03.2017, whereas respondent No.2 was arrested on 08.02.2017 and thus, a period of thirty four days had elapsed since the date of arrest. Respondent No.2 had been in judicial custody for a long time after expiry of police remand (if any) and the challan had not been presented in Court. Faced with this situation, the learned trial Court had no other option but to release respondent No.2 on regular bail as he could not be kept in judicial custody indefinitely. Thus, it cannot be said that the learned trial Court exercised its power arbitrarily or capriciously.

9. It is not the case of the petitioner that respondent No.2 has violated any terms of bail. Thus, I do not see any reason for cancelling his bail.

10. Accordingly, the petition is dismissed.

(SUDHIR MITTAL)
JUDGE

21.03.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No