

Sr. No.212

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

CRM-M-17485-2018

Date of decision:04.07.2018

Shiv Kashyap

.....Petitioner

versus

State of Punjab

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Surender Dhull, Advocate
for the petitioner.

Mr. K.S.Aulakh, DAG, Punjab.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking bail pending trial under Section 439 Cr.P.C. in FIR No. 4, dated 08.04.2016 registered under Sections 406, 420, 419, 120-B IPC(Sections 467, 468, 471, 465 IPC added later on) at Police Station NRI Amritsar.

Learned counsel for the petitioner submits that even as per the allegation the total amount of policies purchased by the complainant was about Rs. 28 lakhs, whereas for reclaiming that amount of those policies the complainant is alleged to have paid about Rs. 90 lakhs to the petitioner. This itself is an improbable allegation. Learned counsel further submits that there is no allegation that the petitioner himself has ever promised anything to the complainant. The allegation is that the petitioner used to collect money on behalf of and on the assurance of one Jagdish, one Pandey and one Gayatri Devi to the complainant. However, none of the above persons were arrayed as an accused. Even one of the co-accused of the petitioner has been granted bail by this Court. Learned counsel further submits that

nothing has been recovered from the petitioner and he is in custody since 09.09.2017. He is not required for the purpose of any further investigation.

On the other hand, learned State counsel, on instructions from Inspector Parneet S.Dhillon, Police Station NRI Amritsar, SHO, submits that as per the police investigation the petitioner received Rs. 97 lakhs, all in cash from the complainant. Learned State counsel further submits that the petitioner had even handed over the cheques to the complainant which were not honored by the bank saying that these were fake cheques. However, the writing on the cheques is being compared with the writing of the petitioner; and for that purpose the cheques have been sent to FSL. But the FSL and in its report said that more samples would be required for the definite opinion in this regard.

Since it is an admitted fact that the persons on whose asking the petitioner is alleged to have collected money from the complainant have not even been arrayed as accused and even the FSL has not given the definite opinion regarding the hand writing sought to be compared by the prosecution, therefore, there appears to be substance in the submissions made by learned counsel for the petitioner.

In view thereof, but without commenting upon the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

4th July, 2018

Shivani Kaushik

[RAJBIR SEHRAWAT]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*