

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

214

CRM-M-29077-2018

Date of Decision: October 11, 2018

Hans Raj

.....Petitioner(s)

versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Harish Mehla, Advocate for the petitioner.

Mr. Nishchal Mann, DAG, Haryana

Mr.Arjun Veer Sharma, Advocate for the complainant

Sudhir Mittal, J. (Oral)

The petitioner-Hans Raj seeks grant of anticipatory bail in FIR No. 13 dated 14.01.2018, registered at Police Station Sector 5, Panchkula, under sections 379, 420 IPC.

2. The complainant in this case is the son of the deceased-Sh. R.S. Chauhan. Said Sh. R.S. Chauhan used to reside alone in Panchkula. The petitioner was his caretaker and he was living with said Sh. R.S. Chauhan along with his wife. All his daily requirements and medical needs were looked after by the petitioner. Sh. R.S. Chauhan has three sons, one of whom is living abroad, one is residing in Delhi and the third son (complainant) is a Government servant living in Chandigarh. The allegation against the petitioner is that he took advantage of fiduciary relationship with late Sh. R.S. Chauhan and defrauded him of his money.

3. The submission of learned counsel for the petitioner is that the

petitioner looked after late Sh. R.S. Chauhan for 28 years. He was the only one looking after his daily needs and requirements including medical treatment while the complainant and his brothers never bothered to look after their aged father. Sh. R.S. Chauhan died due to natural causes and he was of good mental health till his death. During his life time, he transferred money in favour of the petitioner so that the petitioner was able to discharge his duties. No complaint of embezzlement was ever made by him. After his death, the complainant and his brothers have thrown the petitioner out of the house of their father and have levelled false allegation against him. A sum of Rs.11 lacs has already been returned by the petitioner. The petitioner has joined investigation pursuant to interim bail granted by this Court and under the facts and circumstances of this case, he deserves the concession of anticipatory bail.

4. Learned State counsel submits that although the petitioner has joined investigation, he is not co-operating therewith. Money is still to be recovered from him.

5. Learned counsel representing the complainant opposes the prayer for grant of anticipatory bail. It is his submission that a serious offence has been committed by the petitioner by misusing his fiduciary relationship with late father of the complainant and thus, he is not entitled to any concession from this Court. The fact that a sum of Rs.11 lacs was returned by the petitioner shows that the petitioner has embezzled money. It is however, not disputed that till the time of his death late Sh. R.S. Chauhan was possessed of his mental faculties.

6. From the submission of learned counsel representing the parties, it is clear that late Sh. R.S. Chauhan was mentally alert till the time of his death. During his life time, he never made any allegation against the petitioner. Even today, no

allegation is being levelled that the petitioner coerced late Sh. R.S. Chauhan to give him money. Whether the cheques issued by late Sh. R.S. Chauhan in favour of the petitioner were forged or not will be determined in the trial. If at all, the petitioner stole money from late Sh. R.S. Chauhan or has committed any fraud, he shall be punished after the trial.

7. At this stage, there is no reason to send him behind the bars as he has already appeared before the Investigating Officer.

8. Accordingly, the petition is allowed and the interim bail granted to the petitioner vide order dated 21.08.2018, is made absolute subject to his compliance of conditions enshrined under Section 438(2) of the Code of Criminal Procedure, 1973.

October 11, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No