

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-10961-2019 (O&M)
Date of Decision:-28.3.2019

Ashish Malik

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Inder Pal Singh, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner seeks grant of anticipatory bail in respect of a case registered against him FIR No.246 dated 18.12.2018 at Police Station Mataur, District Mohali under Sections 406 and 420 of Indian Penal Code, 1860.

The FIR was lodged at the instance of Munish Dhadwal, wherein he alleged that he came in contact with petitioner Ashish Malik and his wife Sonia Malik through a common friend Sudhir Kangar. Since, Sudhir Kangar was aware that the complainant was looking for some residential house in Chandigarh, Ashish Malik and his wife Sonia Malik told him that they have a good offer for purchase of a residential property below the market price. Ashish Malik and Sonia Malik told the complainant that they know Anil Rai working as a recovery head at Punjab National Bank, Sector 16, Chandigarh and who is handling a property bearing House No.107,

Sector 21-A, Chandigarh as the loanee had defaulted in repayment of loan. It is alleged that Ashish Malik and Sonia Malik told him that although the market price of the property was ₹3 crores but they could arrange for sale of the same for ₹2 crores but the complainant would have to give an amount of ₹20 lacs and that ₹5 lacs would be required to be given in advance. The complainant paid an amount of ₹5 lacs to the said persons. Later in last week of May 2018, the said two accused told the complainant that three bank drafts would have to be prepared to participate in E-Auction and accordingly the complainant got the bank drafts prepared through M/s RNR Enterprises Private Limited i.e. the company of the complainant. Three separate applications one in the name of M/s Shri Property, one in the name of M/s RNR Enterprises Private Limited and one in the name of Ashish Malik were submitted with the petitioner. However, later Ashish Malik asked the complainant to provide his bank account details as Anil Rai would be refunding the amount deposited with Punjab National Bank.

It is further the case of the complainant that the amount in respect of the demand drafts was refunded although a part of the same was refunded by way of transfer entry through the bank account of Ashish Malik and M/s Shri Property. However, an amount of ₹3,000/- was deducted. The complainant alleged that the accused, however, did not return the amount of ₹5 lacs, which they had taken from him as advance in the beginning.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that in case the petitioner had any intention to cheat the complainant, he would not have

returned the entire amount of ₹22 lacs, a part of which had been returned through the bank account of the petitioner.

Opposing the petition, the learned State counsel has submitted that since the allegations levelled in the FIR are very specific against the petitioner to the effect that he had taken the amount of ₹5 lacs by holding out a representation that he would get a sale of house effected in his name by way of E-Auction through the bank, whereas the same was not done and even the amount of ₹5 lacs was not returned. It has further been informed that infact the credentials of the petitioner shows that he had earlier also defrauded a bank regarding which FIR No.247 dated 4.8.2016 registered at Police Station Zirakpur, District SAS Nagar under Sections 420 and 120-B of Indian Penal Code was lodged and that, as such, he is disentitled for grant of anticipatory bail.

Although, during the course of arguments, the learned counsel for the petitioner submitted that the other FIR infact already stands quashed qua one of the accused, but a perusal of order dated 26.2.2019 passed by a Coordinate Bench of this Court in CRM-M-42387-2016 shows that FIR No.247 dated 4.8.2016 registered at Police Station Zirakpur, District SAS Nagar under Sections 420 and 120-B of Indian Penal Code, had been quashed qua Sulochana Malik, wife of the petitioner, as in the said FIR no overt act had been attributed to the wife of the petitioner. In these circumstances, quashing of the other FIR qua petitioner's wife on the ground that no overt act was attributed to her, would not advance the case of the petitioner in any manner.

Having considered rival submissions addressed before this Court and bearing in mind the fact that there are very specific and unambiguous allegations levelled against the petitioner, which do stand substantiated from the fact that the complainant had participated in the auction proceedings and had infact made deposits as advance money some of which was through the bank account of the petitioner, the involvement of the petitioner is *prima facie* evident. Further the fact that the petitioner has earlier also been involved in other case of fraud would also disentitle him for grant of anticipatory bail.

The petition is sans any merit and is hereby dismissed.

28.3.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No