

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

CRM-M-12235-2020 (O&M)
Date of Decision:- 17.9.2020

Ajay Kumar ... Petitioner

Versus

State of U.T. Chandigarh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Abhinav Gupta, Advocate, for the petitioner.

Mr. Rajiv Sharma, APP for U.T. Chandigarh.

Mr. Saurav Arora, Advocate, for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No.95, dated 17.3.2020, Police Station Sector 39, U.T. Chandigarh, under Sections 406, 420, 506 IPC.
2. The FIR in question was lodged at the instance of Maninder Ahuja wherein it is alleged that petitioner-Ajay Kumar is running a shop under the name and style of Indora Mobile Communication and that the complainant is into business of sale/purchase of second hand mobiles and that the accused and the complainant being in the same business were known to each other. It is alleged that in January, 2019

the accused represented to the complainant that in case the complainant wishes to have a permanent source of income, he could arrange for the same and could get a kerosene oil pump allotted to him. It is alleged that although the accused had demanded an amount of ₹20 lakhs to get a kerosene oil pump allotted but the deal was finalized for ₹14 lakhs and that the complainant having been taken in by the said representation paid an amount of ₹11 lakhs approximately in installments. It is further stated therein that the accused had also demanded 2 blank duly signed cheques and a blank affidavit, Aadhaar card and PAN Card which were all furnished to the accused. Complainant has alleged that despite taking the said amount the accused did not get any kerosene oil pump allotted and in fact has defrauded him and had also presented the blank cheques by mentioning the amounts as ₹12 lakhs and ₹9,90,070/- and upon dishonour of the same the accused even filed complaints under Section 138 of Negotiable Instruments Act.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case on account of some monetary dues as there were monetary and business transactions between the complainant and the accused who were both in the same profession. Learned counsel for the petitioner has further submitted that although the complainant asserts that he had paid an amount of ₹11 lakhs for the purpose of allotment of kerosene oil pump but the manner in which the payments have been made would show that the same were apparently made for some other purpose. Learned counsel in this

regard has drawn the attention of this Court to the details of the payments made by the complainant which have been reproduced in para No.15 of the petition as follows:

Date	Amount Received (in Rs.)
22.01.2019	60,000/-
04.02.2019	28,000/-
11.02.2019	15,000/-
12.02.2019	75,000/-
13.02.2019	60,000/-
13.02.2019	90,000/-
14.02.2019	92,000/-
14.02.2019	17,000/-
21.02.2019	1,40,000/-
27.02.2019	25,000/-
11.03.2019	42,000
11.03.2019	48,000/-
13.05.2019	22,000/-
13.05.2019	3,000/-

4. It has been submitted that out of the aforesaid 14 transactions it is only one transaction which is more than ₹1 lakh and that all other transactions are for smaller amounts including payments of ₹3000/-, ₹15,000/-, ₹17,000, ₹22,000/- and which apparently were for on account of the business transactions of sale and purchase of mobile phones.
5. Opposing the petition, learned State counsel assisted by counsel for the complainant has submitted that the payments in question have been made in several installments on the asking of the petitioner himself and that there is no evidence in support of the case of the

petitioner that the aforesaid transactions were in fact for sale of mobile phones.

6. I have considered rival submissions addressed before this Court. Bearing in mind the fact that the aforesaid payments have been made in by way of smaller amounts and which have been made over a period of about 5 months, it would certainly be debatable as to whether the said payments can be attributed to the alleged representation made by the petitioner for allotment of kerosene oil pump or as to whether the same pertain to some other business transactions. In these circumstances this Court does not find the present case to be a case of custodial interrogation. The petition, as such is accepted and interim directions issued vide order dated 20.5.2020 are made absolute subject to the condition that the petitioner shall appear and join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

September 17, 2020

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No