

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15778-2020
Date of decision: 07.10.2020

KULWINDER SINGH

.... Petitioner

V/S

STATE OF PUNJAB

.... Respondent

Coram: Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Puneet Sharma, Advocate for the petitioner.
Ms. Deepali Puri, Addl. A.G., Punjab.
Mr. N.S. Dandiwal, Advocate for the complainant.

B.S. Walia, J. (VC)

Case is being taken up for hearing through Video Conferencing
due to the outbreak of Covid-19 pandemic.

[1] Prayer in the petition under Section 438 Cr.P.C. is for grant of
anticipatory bail to the petitioner in case FIR No.0020 dated 06.02.2020,
registered under Section 420, at Police Station City Dhuri, District Sangrur.

[2] On 08.09.2020, while noticing the stand of learned counsel for
the petitioner on instructions from the petitioner that the petitioner was ready
to make the payment of Rs.3.9 lakhs by way of two installments i.e. Rs.1
lakh within a week and remaining amount within a period of 4 weeks
thereafter in which eventuality, counsel for the complainant stated that the
complainant was ready to settle the dispute, the case was adjourned to
15.09.2020 to enable the petitioner to make first deposit of Rs.1 lakh in the
Registry of this Court. On 15.09.2020, learned counsel for the petitioner
stated that the petitioner was unwilling to make the payment in terms of
order dated 08.09.2020.

[3] Brief facts of the case are that FIR was registered by the complainant

Mishra Singh that the petitioner had helped him in getting sanctioned home loan of Rs.12,28,000/- from DHFL Bank, Branch Sangrur but he had taken Rs.3,90,000/- from him before getting the above loan sanctioned on the pretext that the aforementioned amount would be paid along with loan amount and further had given him cheque No.027641 and No.027639 for Rs.30,000/- & Rs.3,90,000/- respectively, drawn on Central Bank of India, Sangrur by holding out that if the amount of Rs. 3, 90,000/- was not received by him along with the loan, then he may use the aforesaid cheques to get the amount back. The FIR further records that when the amount of Rs.3,90,000/-was not received in the account, the complainant approached the petitioner who kept on avoiding him on one pretext or the other and kept on telling him that the amount would come back and that the complainant had phone recordings of the same, that eventually the two cheque's on presentation were dishonoured and on the complainant again approaching the petitioner, was abused by the petitioner and told to get lost as he had cheated the complainant and the complainant could do whatever he wished to.

[4] Learned counsel for the petitioner contends that the petitioner is a peaceful and law abiding citizen and the police had falsely implicated him in the FIR though initially he was granted anticipatory bail vide order dated 06.01.2020.

[5] Learned State counsel as well counsel for the complainant on the other hand contend that initially the petitioner was granted concession of pre-arrest bail vide order dated 06.01.2020 because at that time, it was reported by the Economic Offences Wing of the concerned Police

registration of the FIR by the complainant it was evident that the petitioner had taken a sum of Rs.3,90,000/- from the complainant before getting loan of Rs.12,28,000/- sanctioned by representing that the aforementioned amount of Rs.3,90,000/- would be returned along with the loan and further two cheques (as mentioned above) given to the complainant to be used to get the money back in case the amount of Rs.3,90,000/- was not credited in his account along with the loan amount were dishonoured on presentation by the complainant on non receipt of amount of Rs.3,90,000/- along with the loan amount, thereby the complainant was cheated by the petitioner. Learned counsel states that in the circumstances, the learned Additional Sessions Judge, Sangrur rightly dismissed the prayer of the petitioner for pre-arrest bail.

[6] Learned counsel for the respondents further contend that custodial interrogation of the petitioner is necessary for proper conduct of investigation as well as to get the amount in question recovered. Besides, the petitioner is a habitual offender as FIR No.17 dated 16.11.2019 under Section 420 also stands registered against the petitioner at Police Station Dharamgarh, District Sangrur in respect of a similar offence.

[7] I have considered the submissions of learned counsel for the parties. In **Mohinder Singh v. State of Punjab, 2014 (45) RCR (Crl.) 944 (P&H)**, it was held as under :-

“It is now well settled principle of law that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest, recovery of case property from the main accused and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not

operate as an inroad the statutory investigational powers of anticipatory bail. Sequelly, the Court should not be unmindful of the difficulties likely to be faced by the investigation agency and the public interest likely to be affected thereby”

[8] Accordingly, after taking all aspects of the matter into account, I am of the view that the petitioner is not entitled to grant of pre-arrest bail as custodial interrogation of the petitioner is necessary for proper conduct of investigation as well as to get the amount in question recovered. In the circumstances, finding no merit, the petition under Section 438 Cr.P.C. is dismissed.

(B.S. Walia)
Judge

October 07, 2020
‘Rajneesh-Amit’

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>