

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CRM-M-22160 of 2020
Date of Decision:02.11.2020

Jagdish Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vinod Kumar Kaushal, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

On 10.08.2020, the following order had been passed in this petition:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail upon FIR no.46, dated 20.03.2020, having been registered at Police Station Tibba, District Police Commissionerate, Ludhiana, alleging therein the commission of an offence punishable under Section 420 of the IPC.

Learned counsel for the petitioner inter alia submits that even the bank manager had informed the police that the cheques dishonoured were for an amount of Rs.5 lacs only and not Rs.10 lacs or Rs.14 lacs; and further, in any case, once a criminal complaint

under the provisions of Section 138 of the Negotiable Instruments Act, 1881 has already been instituted by the complainant, an FIR on the same cause of action would not lie.

Without making any comment on the merits of the case, notice of motion be issued to the respondent-State, with Mr. Ramandeep Sandhu, learned Sr. DAG, Punjab, accepting notice at the asking of the court. He submits that as per his instructions, the fraud allegedly is for Rs.10 lacs and not for Rs.5 lacs.

He does not deny, again on instructions, that a criminal complaint under the provisions of the Act of 1881 has been instituted by the complainant.

That being so, in the meanwhile, upon the petitioner joining investigation, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

*Learned counsel for the parties would address arguments in terms of the judgment of the Supreme Court in **Kola Veera Raghav Rao v. Gorantla Venkateswara Rao**, AIR 2011 SC 641, on an FIR being registered, despite a criminal complaint already having been filed by the complainant under the provisions of the Act of 1881.*

Adjourned to 02.11.2020.”

Today, learned State counsel on instructions from ASI Jora Singh, submits that the petitioner has joined investigation and presently at least his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the

custodial interrogation of the petitioner, this petition has in fact rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, he would be given 7 days notice before arrest, (in the context of the FIR in question), duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner of any lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

November 02, 2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No