

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CRM-M-24405-2020

Date of Decision : 26.08.2020

Sumit Kumar Sethi

....Petitioner

Versus

State of Punjab

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rajnikant Upadhyay, Advocate,
for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

Mr. Arshdeep Singh Kler, Advocate,
for the complainant.

Harsimran Singh Sethi, J. (Oral)

Present petition has been filed seeking the benefit of anticipatory bail to the petitioner in respect of FIR No. 120 dated 30.07.2020 under Sections 420, 406 and 120-B of IPC and Section 3 (1) (s) of SC and ST (Prevention of Atrocities) Act, 1989 (Amendment 2015), registered at Police Station, Urban Estate, Patiala.

Learned counsel for the petitioner has argued that the petitioner was only engaged by the complainant to develop a software for him for running the online business for the sale of items. Learned counsel submits that for the said purpose, the petitioner was to charge Rs. 11 lacs from the

complainant and a sum of Rs.8,65,000/- has only been paid by the complainant to the petitioner and rather a payment of Rs.2,35,000/- is still pending. Learned counsel for the petitioner submits that the amount which the petitioner has deposited in the account of various persons, are the employees of the complainant, hence, it is incorrect that complainant paid a sum of over Rs.17 lakhs to the petitioner. Learned counsel for the petitioner argues that there is no fraud or cheating committed by the petitioner, as alleged in the FIR and he has already given his side of story to the police and, therefore, he is entitled for the benefit of anticipatory bail.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State and Mr. Arshdeep Singh Kler, Advocate, who has also joined the proceedings through video conference, accepts notice on behalf of the complainant.

Learned State counsel submits that the petitioner has only given a chart as to how he received the amount of Rs. 8,65,000/- and no evidence to support the statement that the petitioner was only engaged to develop a software, has been produced.

Learned counsel for the complainant submits that complainant has not employed any person so as to make the payment and all the persons, in who's account the complainant had made deposits, are the employees or the relatives of the petitioner and the amount was deposited in their accounts by the complainant on the asking of the petitioner, therefore, in

fact the complainant has been duped by the petitioner of the payment which the complainant has made to the petitioner by giving him false assurance of high return of money being invested by the complainant. Learned counsel for the complainant further states that as per the complainant, the petitioner had promised that the software, which will be developed, will be operated upon by him alongwith others, thereafter, same will be sold and the same is going to fetch Rs. One Crore which is actually a fraud committed upon the complainant.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The assertion of the petitioner that he had only been engaged to develop a software is a bald statement without there being any supporting document. On being asked as to whether the petitioner has any agreement to support the argument that he was only engaged by the complainant to develop the software, the answer of the learned counsel for the petitioner was negative that no such document was ever executed. Further, on being asked as to who engaged the employees, in who's account the money has been deposited by the complainant. Learned counsel for the complainant has asserted that all those persons are the employees of the petitioner and one of the person, to whom the payment was made by the complainant on the asking of the petitioner, is a relative of the petitioner. As per the learned counsel for the complainant no persons were ever employed by the complainant so as to make payment in their accounts.

All these facts as to whether the payments were made by the complainant on the asking of the petitioner and the persons, who are being

termed as employed by the complainant, were employed by him or the petitioner and under what circumstances, needs to be investigated and the money, which runs into lakhs of rupees, paid by the complainant to the petitioner, is yet to be traced for which, the custodial interrogation of the petitioner is necessary.

In the facts and the circumstances of this case, no ground is made out to grant the petitioner the benefit of anticipatory bail and the same is, accordingly, dismissed.

August 26, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No