

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

102

CRM-M No.25187 of 2020

DATE OF DECISION : 1st SEPTEMBER, 2020

Rakesh

.... **Petitioner**

Versus

State of Haryana

.... **Respondent**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

=====
In virtual Court
=====

Present: Mr. Bhupender Singh, Advocate for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory/pre-arrest bail in case FIR No.229 dated 11.08.2020 registered under Sections 406 & 420 IPC, at Police Station Butana, District Karnal.

It is contended by counsel for the petitioner that the case against the petitioner is totally concocted. However, the petitioner is not even denying having received an amount of ₹5.5 lacs from the complainant and having issued the cheques for the same amount. It is further submitted by the counsel for the petitioner that the petitioner is ready to return the said amount even now. Qua the remaining amount, it is submitted by the counsel that the complainant has not shown any record or evidence to show that he had paid an amount of ₹11.5 lacs to the petitioner. Still further it is submitted by the counsel that there is no other case against the petitioner.

Notice of motion.

Mr. Rupinder Singh Jhand, Addl. AG, Haryana, accepts notice on behalf of the State and Mr. Parminder Singh, Advocate put in appearance on behalf of the complainant.

Learned State counsel, being instructed by SI Satpal Singh, has submitted that there is a specific allegation against the petitioner that he received an amount of ₹11.5 lacs by cheating the complainant. Still further, it is submitted that despite not having any license under The Immigration (Carriers Liability) Act, 2000 the petitioner is not even denying having received amount for that purpose. Hence, the petitioner does not deserve any concession of bail.

Learned counsel for the complainant has also submitted that the complainant has been cheated by the petitioner to the extent of amount of ₹11.5 lacs. The petitioner had even got certain amounts through the bank transactions. Therefore, the petitioner had issued the cheques for return of the same. However, even the said cheques were dishonoured. Hence, the petitioner has not only cheated the complainant, rather; has committed another offence under Section 138 of the Negotiable Instruments Act, as well.

As response to this the counsel for the petitioner has reiterated that the petitioner would return the amount received by him through the bank accounts. He would make the payment of ₹5.5 lacs. However, this payment should not be construed as any admission of the guilt on his part and same should not be read adverse to him during the trial, if any.

In view of the above, it is ordered that in the event of arrest, the petitioner be released on bail subject to his furnishing bonds/surety to the satisfaction of Arresting/Investigating Officer and further subject to the petitioner making payment of an amount of ₹5.5 lacs to the

complainant within a period of 15 days from today. The petitioner shall also join the investigation as and when called by the police and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

However, it is clarified that for making the above said payment the petitioner shall produce a demand draft in the name of the complainant, for an amount of ₹5.5 lacs, before the investigating officer of the case within 15 days. If the demand draft is so produced by the petitioner before the investigating officer, then the said demand draft shall be handed over to the complainant for being encashed. On receipt of the said demand draft the complainant shall return the three cheques which have already been issued by the petitioner in favour of the complainant for the payment of the said amount. These cheques shall also be returned in presence of the investigating officer itself. Still further it is clarified that; in the first instance, the investigating officer may release the petitioner on interim bail, however, he shall be granted anticipatory bail, finally, only when he produces the demand draft for the amount of ₹5.5 lacs as ordered above, within 15 days.

In view of the above, but without commenting anything on merits of the case, the present petition is allowed.

However the only fact of this payment shall not be taken adverse to the petitioner during the trial of the case, if any.

1st SEPTEMBER, 2020
'raj'

(RAJBIR SEHRAWAT)
JUDGE

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