

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

CRM-M-38684 of 2019

Date of Decision:-04.03.2020

Harbir Singh Narwal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. M.S. Kathuria, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Sudhir Rana, Advocate for
Mr. I.S. Pabla, Advocate
for the complainant.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Harbir Singh Narwal has filed the present petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.396 dated 10.08.2019, under Sections 406, 420 and 506 IPC, registered at Police Station Shahabad, District Kurukshetra.

Learned counsel for the petitioner has submitted that as per the allegations contained in the FIR the petitioner had taken a sum of Rs.25,00,000/- (Rs.18,00,000/- + Rs.7,00,000/-) on the pretext of sending the son of the complainant abroad. He has further submitted that the allegations are ex-facie vague as neither any date is mentioned nor it is

mentioned that at what point of time the amount was advanced to the petitioner. He has further submitted that in fact the controversy was with regard to some agreement to sell, which was executed between the petitioner and one Amarjit Kaur, who is stated to be religious sister of the complainant and it was civil dispute with regard to that agreement to sell. He further submitted that the present FIR was registered against the petitioner on the ground that he had taken the money to send the son of the complainant abroad only to pressurise him. He has further submitted that the petitioner is not engaged in such type of profession of sending someone abroad and he never did this to anybody. He has further submitted that the petitioner is a small jeweler of the same city in which the complainant is residing and both the petitioner as well as the complainant are known to each other for a long time. He has further submitted that there is no other case pending against the petitioner of such like allegations as in the present case.

He has further submitted that on 11.9.2019 this Court had issued notice of motion and arrest of the petitioner was also stayed vide that order. He has further submitted that the petitioner has already joined the investigation and fully cooperated with the investigation process and therefore prays for grant of anticipatory bail to the petitioner.

Per contra learned State counsel on instructions from ASI Mohinder singh has stated that it is a case where the allegations are with regard to taking away of Rs.25,00,000/- by the petitioner on the pretext that he would send the son of the complainant abroad. On being specifically asked as to whether any case of similar allegations is pending against the

petitioner, learned State counsel on instructions from ASI Mohinder Singh states that he has no instructions to say that any such type of similar case is pending against the petitioner. However, learned State counsel on specific instructions from ASI Mohinder Singh, who is present in the Court, said that the petitioner has already joined the investigation and he had fully cooperated with the investigation process and that he has not required for any custodial interrogation at this stage.

Learned counsel for the complainant has caused appearance and opposed the grant of anticipatory bail to the petitioner on the ground that huge amount in the case is involved. On being pointedly asked with regard to the factum of payment of Rs.18,00,000/- to the petitioner as to whether he has any receipt of the same or not, he has submitted that although there is no receipt of the aforesaid transaction but the petitioner has given a cheque of Rs.18,00,000/- as a security, which was dishonoured on being presented before the bank. However, he states that after dishonour of the cheque the complainant did not file any proceedings under Section 138 of Negotiable Instruments Act.

I have heard learned counsel for the parties and perused the records.

From the perusal of the FIR, certainly it can be seen that regarding the amount of Rs.18,00,000/-, which is alleged to have been given, no time and place have been mentioned in the FIR. It is purported to have been given by way of cash. However, the consideration amount of Rs.6,00,000/-, with regard to the agreement to sell between the petitioner and sister of the complainant is concerned, the said amount was transferred

in the name of the petitioner. To this learned counsel for the petitioner was pointedly asked, to which learned counsel for the petitioner has stated that the petitioner would get the sale deed executed. So far as the amount of Rs.18,00,000/- is concerned, prima facie on the basis of the argument of the parties on the basis of FIR, no receipt with regard to the same is being shown to the Court. The Court while deciding the application of interim bail is required to see prima facie as to whether any allegations as per FIR would be made out or not. Apart from this the other factors to be seen are as to whether the petitioner has joined the investigation or not or as to whether he is likely to influence any witness or not.

In the present case, as per stand taken by learned State counsel, the petitioner has already joined the investigation and he has fully cooperated the investigation process and that his custodial interrogation at this stage is not required.

Therefore, without going into the merits of the case and keeping in view the stand taken by learned State counsel, the present petition is allowed. In the event of arrest, the petitioner is ordered to be released on bail to the satisfaction of the Arresting Officer/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

March 04, 2020

Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No