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

CRM-M-3741-2021

Date of Decision: 07.10.2021

Kailash Chand ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Dinesh Kumar, Advocate, for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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AMOL RATTAN SINGH, J. (Oral)

On January 28, 2021, the following order had been passed by this court:-

> "Case heard via video conferencing.
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> By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.225, dated 15.10.2019, having been registered at Police Station Bajghera, District Gurugram, alleging therein the commission of offences punishable under Sections 408 and 420 of the IPC read with Section 120-B thereof.
>
> Learned counsel for the petitioner submits that the allegation against the petitioner is wholly false, he having left the complainants' company, in March 2019 but with the FIR having been registered on 15.10.2019, i.e. 7 months later.
>
> He further submits (on query) that the petitioner approached this court (and the Sessions court seeking the same concession), only more than one year later because he did not know that the FIR stood registered against him.
>
> A perusal of the order passed by the learned Addl. Sessions Judge, Gurugram, on 19.01.2021, shows that a similar application was dismissed by that court on the ground that the signatures of the petitioner had to be obtained and compared with the signatures on the stolen cheques and withdrawal forms etc.
>
> Notice of motion.
>
> Mr. B. S. Virk, learned DAG, Haryana, accepts notice at the asking of the court. The petitioner is directed to join investigation within one week and immediately upon joining investigation he is directed to supply the details of his bank accounts as were already existing prior to him having left the company in question, so as to enable the investigating agency to compare the signatures and hand-writing on the cheque with the petitioners' signatures in his bank account, as also to verify his hand-writing from other documents.

If upon so joining the investigation he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall, further, abide by all 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 Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

If the petitioner is willing to give the bank account number to the investigating officer but the investigating officer does not accept it simply to try and show that the petitioner did not cooperate the investigation, again the petitioner would be at liberty to immediately approach the learned Ilaqa Magistrate concerned and give his bank account numbers, as referred to above, to the Ilaqa Magistrate, who would then summon the investigating officer and ensure that such bank account numbers are handed over to the investigating officer.

Naturally, if the petitioner does not even do that, this petition shall stand dismissed on the next date of hearing.

A gazetted officer is directed to file a reply to the petition before the next date of hearing.

Adjourned to 15.03.2021."

Thereafter, on September 27, 2021, the following order was passed, reproducing therein also the order dated 23.04.2021:-

"Case heard via video conferencing.

On 23.04.2021 the following order had been passed by this court:-

"Case heard by video conference. \

Pursuant to the interim order passed in favour of the petitioner on 28.01.2021 and notice of motion having been issued to the respondent State, a reply by way of an affidavit of the ACP, Udyog Vihar, Gurgaon, has been filed, which is ordered to be taken on record.

In the said reply it has been stated by the ACP that the petitioner has joined investigation and has in fact admitted that he committed forgery. Learned counsel for the petitioner denies making any such admission before the police and submits that he has also given his bank account numbers and specimen signatures to the police for comparison.

Learned State counsel submits that the said specimen signatures have been sent to the FSL for comparison/examination but with the report still awaited.

In view of the above, without making any comment on the actual merits of the case even at this stage, adjourned to 19.05.2021.

Interim order to continue.

> A status report be filed by the ACP again, giving therein the results of the forensic examination as also the investigation carried out till the next date of hearing."

> Today counsel for the petitioner has not appeared (possibly since it is past 4:00 p.m.).
>
> However, a status report has been filed (pursuant to the aforesaid order), by the ACP, Udyog, Gurugram, dated 23.08.2021, which is ordered to be taken on record.
>
> Adjourned to 07.10.2021, with it made clear that the counsel for the petitioner does not appear on that date, the interim order would stand vacated.
>
> To be shown in the urgent motion list.
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> Interim order to continue till that date only and specifically."

Today, learned counsel for the petitioner is present and learned State counsel points to the status report subsequently filed by the ACP, Udyog, Gurugram, dated 23.08.2021, in which it is stated that as per the FSL report, the signatures on the 26 cheques in question do not match with the admitted signatures of the complainant, Ram Karan Yadav, and that it was no possible to opine as to whose signatures they were, even on comparison with the handwriting specimen of the petitioner.

Though learned counsel for the petitioner obviously submits that therefore the petitioner cannot be held guilty of the commission of the aforesaid offence, it needs to be noticed by this court that this is a petition filed under the provisions of Section 438 of the Cr.P.C.and looking at what has been stated in the affidavit earlier filed by the ACP (dated 09.03.2021), I would see no reason to continue with this petition.

In that affidavit it has been stated (other than the alleged confession of the petitioner upon joining investigation), that in fact the cheques in question were issued to five persons, 3 of whom are brothers of the petitioner and with one of them being his friend who resides in his native village.

The petitioner is also alleged to have opened a bank account in the name of his colleague, Varinder, but while opening the account he actually gave the telephone number of his own wife (i.e. the petitioners' wife), to ensure that any transaction from the said account was informed by the bank on the said telephone number.

Keeping in view all the aforesaid facts, without making any comment on the actual merits of the case, which naturally would proceed on the basis evidence gathered in the investigation and led before the trial court (if it comes to that stage), this petition is dismissed, with the interim order vacated.

07.10.2021 **(AMOL RATTAN SINGH)**
dharamvir **JUDGE**

Whether reasoned/speaking : Yes
Whether reportable : No