

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

CRM-M-23731-2018 (O&M)

Date of decision: 09.07.2021

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Partap Singh, Advocate for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Ashok Kumar, an accused in FIR No.108 dated 25.04.2018, for offences under Sections 420 and 406 IPC, registered with Police Station Narnaund, District Hansi.

Briefly stated the facts of the case as per prosecution story are that, petitioner/accused Ashok Kumar was acquainted with complainant Sukhbir son of Dariya Singh, resident of Petwad, Tehsil Narnaund, Hansi and the accused represented to the complainant that he had several contacts in the foreign countries, as such, he can send son of the complainant abroad and make him successful there; the complainant

fell in the trap of the accused and handed over a sum of Rs.40 lacs to him, out of demanded amount of Rs.50 lacs; the money was paid in cash in the presence of Ram Mehar son of Azad and son of the complainant; an entry was made in the ledger and accused had agreed to pay interest @ 1% on the said amount; however, the accused failed to keep his promise; he did not return the money to the complainant either, rather the accused threatened to kill the complainant and refused to return his money; on matter being reported to the police, formal FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions at Hisar, by moving an application for grant of pre-arrest bail. However, his such application which was assigned to Addl. Sessions Judge, Hisar, was however dismissed, vide order dated 17.05.2018. As such, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel and counsel for the complainant.

I have heard learned counsel for the parties besides going through the record and I find that the petition is bound to fail. The reason for it are as follows:-

The petitioner is specifically named in the FIR and there are clear allegations of petitioner/accused having duped the complainant of substantial sum of Rs.40 lacs on the pretext of settling down of son of the complainant abroad. No cogent or convincing reason could be explained prompted by which the complainant might have lodged a false FIR against the accused. Furthermore, to substantiate the allegations of the

complainant having paid Rs.40 lacs to the accused, an entry in the ledger is there, said to contain hand writing/signatures of the accused.

Though, learned counsel for the petitioner has tried to attack the case of the prosecution, stating that the complainant, who is a small farmer could not possibly arrange a substantial amount of Rs.40 lacs and pay that amount in cash to the accused and further no specific date and month in that regard has been mentioned and at the best, it was a loan transaction, for which the complainant has remedy of filing a civil suit and he has wrongly lodged the FIR against the accused, so as to effect the recovery of money promptly.

On the other hand, learned counsel for the complainant has effectively controverted all these contentions, stating that the complainant had sold the landed property, vide different sale deeds to arrange a sum of Rs.40 lacs and furthermore, an entry in the ledger containing hand writing/signatures of accused prove the factum of his having received a sum of Rs.40 lacs. It was not simply a loan transaction and the complainant has given the correct narration of facts in the FIR.

I find that counsel for the complainant has rendered convincing and plausible explanation to the contentions raised by learned counsel for the petitioner. Furthermore, the matter was referred to the Mediation and Conciliation centre of this Court but as per report received therefrom, the mediation has proved to be unsuccessful.

Ld. State counsel, on instructions from ASI Pawan Kumar has stated that though in terms of the order passed by this Court, the

petitioner has joined the investigation but he has not rendered cooperation therein, inasmuch as he has not given his specimen hand writing and signatures, as required by the Investigating Officer for the purpose of comparison with his disputed writing/signatures and further, he has not got any recovery effected. Under the circumstances custodial interrogation of the petitioner is required for complete and effective investigation. In case, the same is denied to the investigating agency that shall leave many loopholes, lacuna and gaps in the investigation, adversely affecting the case of prosecution, which is uncalled for.

Admittedly, custodial interrogation is more elicitation orientated as has been held in case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, wherein Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Thus, considering the gravity and seriousness of allegations, the non-cooperative conduct of the petitioner with the investigating agency, the requirement of his custodial interrogation, he cannot be granted concession of pre-arrest bail, which is to be granted in exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency.

Thus, no case for grant of pre-arrest bail to the petitioner is

made out. The petition is found to be without any merit and is dismissed accordingly.

09.07.2021
sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No