

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

CRM-M-23919-2021

Date of decision:-12.7.2021

Gurbaj Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

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

Present: Mr.Varinder Basa, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioners – Gurbaj Singh, aged about 23 years and Sandeep Singh, aged about 37 years, residents of village Bahadur Lahri, Tehsil and District Pathankot, both of them being accused in FIR No.57 dated 20.4.2021, under Sections 406, 420, 120-B IPC, registered with

Police Station City Sujampur, District Pathankot.

In nutshell, the prosecution story, as can be gathered from perusal of the FIR and other documents is that complainant – Kishan Chand, resident of village Bahadar Lahri, Tehsil and District Pathankot, a handicapped person besides being a senior citizen had good relations with Santokh Singh belonging to his village and working in MES; one day, the complainant came across Santokh Singh, Sandeep Singh and Gurbaj Singh (all of them accused in this case) and Santokh Singh offered to get Ashwani Kumar son of complainant employed in MES; ultimately after complainant consulted his family members, he approached Santokh Singh and others asking them to get employment for his son Ashwani Kumar; the accused agreed to do so on receipt of Rs.2,50,000/-; the complainant accordingly paid that amount after withdrawing it from his bank account to Sandeep Singh on 26.12.2017 and Sandeep Singh in turn gave that amount to Gurbaj Singh, who kept it in a small bag and thereafter left the spot giving assurance for providing job to Ashwani Kumar at the earliest, however, it was not so done; the accused agreed to return the amount to the complainant but did not do so. The accused had admitted in presence of Raghubir Singh, Sarpanch regarding having received the amount from the complainant promising to return the same in monthly installments and paid one installment of Rs.99,000/- in cash to the complainant on 25.8.2018 obtaining the signatures of complainant on receipt for Rs.1 lakh. The accused further agreed to pay the remaining amount of Rs.1,50,000/- within 15-20 days. The accused did not stick to that undertaking and rather started threatening the complainant. On matter

being reported to the police, a probe was conducted by DSP, Dhar Kalan and ultimately formal FIR was registered against the accused.

After being nominated in this case, apprehending their arrest, the both the petitioners had approached the Court of Sessions at Pathankot seeking grant of pre-arrest bail by filing applications, which were assigned to Additional Sessions Judge, Pathankot. However, their such applications were dismissed inasmuch as application filed by petitioner/accused Gurbaj Singh had been dismissed vide order dated 31.5.2021 and application filed by petitioner/accused Sandeep Singh had been dismissed vide order dated 12.6.2021. As such, the petitioners have approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

The allegations against the petitioners are very grave and serious of duping the complainant, an old man suffering from physical disability of his hard earned money to the tune of Rs.2,50,000/- by giving him allurements for finding employment for his son Ashwani Kumar in MES without actually meaning to do so. It is stated that under a compromise, the accused have returned Rs.99,000/- to the complainant though obtaining receipt for Rs.1 lakh but failed to pay the remaining amount of Rs.1,50,000/- or Rs.1,51,000/-.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits

from arrest and custodial interrogation.

Therefore, the custodial interrogation of the petitioners is necessary for complete and effective investigation to effect the recovery of the remaining amount of Rs.1,50,000/- and to find out as to how the whole scam was planned and executed, the persons taking active part in the scam, the role played by each one of them and how they had shared the money received from the complainant etc. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, 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.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

12.7.2021

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE