

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

**CRM-M-24177-2021 (O&M)
Date of Decision : 30.11.2021**

Som Raj Sharma

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Guninder Singh Brar, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. Sumeet Singh Brar, Advocate
for the complainant.

JASGURPREET SINGH PURI, J (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.29 dated 28.04.2021, registered under Sections 420 and 120-B IPC, at Police Station Phool, District Bathinda.

As per the allegations contained in the FIR which was registered on the basis of complaint made by Smt. Usha Rani wife of Late Sh. Shinderpal Singh, against Som Raj, Sunita Rani, Pindu Bala, Janak

Raj and Sunita Rani, that the aforesaid persons have committed a fraud of Rs.12,00,000/- on the pretext of permanently settling the son of complainant namely Khushdeep Kumar in Australia by performing marriage with Pindu Bala. On 08.02.2017, the daughter of the complainant namely Gurpreet Kaur went to Australia on student visa and she had been married to one Jagmeet Singh. The son of the complainant namely Khushdeep Kumar wanted to go abroad after completing 10+2 studies.

As per the allegations, the money was allegedly paid by the complainant to the petitioner for sending the daughter of the petitioner alongwith the son of complainant to Australia. However, the marriage did not take place and a dispute with regard to return of money had taken place. Ultimately, the present FIR came to be lodged against the petitioner.

Learned counsel for the petitioner has submitted that although the marriage did not take place and since the complainant has paid an amount of Rs.12,00,000/- to the petitioner for the purpose of sending the daughter of the petitioner alongwith the son of the complainant to Australia, therefore, cheating has taken place.

He further submitted that on the face of it, it was a civil dispute. The marriage did not take place and now instead of availing the civil remedy, the alleged FIR has been lodged. He has further submitted that the entire fault was of the son of the complainant and not with the petitioner or his daughter.

Notice of motion was issued by this Court on 28.06.2021 and the petitioner was directed to join the investigation and interim bail was granted to him.

Today, learned State counsel, on instructions from Sub Inspector Gurcharan Singh has submitted that in pursuance of the order, passed by this Court, the petitioner has joined the investigation. However, he has not paid back the money and, therefore, he has not cooperated with the investigation process.

Learned counsel for the complainant has submitted that the petitioner has not returned an amount of Rs.12,00,000/- which was taken by him for the purpose of marrying his daughter with the son of the complainant and, therefore, has opposed the grant of anticipatory bail to the petitioner.

I have heard learned counsel for the parties.

It was a case where there was allegedly breach of promise to marry and allegedly an amount of Rs.12,00,000/- was paid by the complainant to the petitioner for the marriage of their children. The marriage did not take place. The petitioner in pursuance of the order passed by this Court has already joined the investigation. The argument raised by learned State counsel as well as learned counsel for the complainant that the recovery is yet to be effected is totally unsustainable. The anticipatory bail cannot be denied only on such like reasons for recovery of money because the police is not supposed to act as recovery agents. It is not the case of the State that in case the

petitioner is released on bail he may abscond or may influence any witness.

In view of the aforesaid position, I am of the considered view that the present petition deserves to succeed. Consequently, the present petition is allowed. The order dated 28.06.2021, granting interim bail to the petitioner is made absolute.

However, anything observed herein above shall have no effect on the merits of the case and is meant for deciding the present petition only.

30.11.2021
mamta

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No