

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

CRM-M-21798 of 2020

Date of Decision: 25.01.2021

Satnam Singh

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Shekhar Verma, Advocate, for the petitioner.

Mr.Amit Mehta, Sr. DAG, Punjab.

Mr. M.S.Basra, Advocate,
for the complainant/respondent no.2.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.68, dated 13.06.2020, having been registered at Police Station Rangar Nangal, District Gurdaspur, alleging therein the commission of offences punishable under Sections 420 and 120-B of the IPC.

On 29.09.2020, the following order had been passed by this court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Though pursuant to the order dated 06.08.2020, the petitioner is stated to have joined investigation and learned State counsel, on instructions from SI Nishan Singh, submits that presently his custodial interrogation is not required, learned counsel appears for the complainant submits that in fact the interim order was also passed on wholly an incorrect statement made.

Without making any comment on either that contention or actually the merits of the case, the complainant is ordered to be implicated as respondent no.2 in the petition, with his particulars to be taken from the FIR itself.

The Registry is directed to carry out the necessary corrections in the memo of parties.

Adjourned to 06.11.2020.

The State as well as respondent no.2 would file a detailed reply to the petition, with a gazetted officer to file such a reply on behalf of the State.

Interim order to continue till the next date of hearing.”

Today learned counsel for the complainant points to Annexure R-2 with the reply of the complainant/respondent no.2, which is a document stated to be an e-mail received by the son of the complainant from one Gurwinder Jit Kaur, showing that he had been given a conditional offer to study in the Brunel University, London, in September, 2017, (with the e-mail shown to be dated December 02, 2016). He therefore submits that the contention made on behalf of the petitioner as recorded in the order dated 06.08.2020, that the petitioner had taken only a loan of Rs.5 lakhs from the complainant, was a wholly incorrect statement on the basis of which he obtained an interim order in his favour by this court.

Learned counsel for the petitioner on the other hand, firstly, submits that even the inquiry report by the police was in favour of the petitioner and that what is stated in paragraph 9 of the petition is not denied even in the reply filed by the complainant/respondent no.2, with the contention of the petitioner being that he is a handicapped person who was unable to repay the entire loan, though he had already paid Rs.3 lakhs with interest, but with Rs.2 lakhs still remaining to be paid in installments.

Countering the above, counsel for the complainant next points to the affidavit stated to have been executed (a handwritten document in vernacular) by the petitioner and respondent no.2 in the presence of witnesses,

on 04.10.2019, stating therein that the petitioner would pay a sum of Rs.11 lakhs in installments to the complainant.

However, Mr. Verma counters again by stating that even therein it is nowhere stated that the petitioner had promised to send the complainants' son abroad.

Having looked at the documents pointed out by the learned counsel on both sides, what is necessary to remember is that this petition is one by which the petitioner is seeking anticipatory bail in the context of the FIR referred to hereinabove, with the investigating agency having already stated before this court on the last date of hearing that his custodial interrogation is not required.

Learned State counsel again, on instructions, reiterates the same.

That being so, especially with the petitioner stated to be a handicapped person, I would see no reason to vacate the interim order passed in favour of the petitioner, with no document having been pointed to by learned counsel for the complainant/respondent no.2, ***qua the petitioner***, that it was he who promised that the complainants' son would be sent abroad.

Hence, with the investigating agency in any case not requiring the custodial interrogation of the petitioner, the petition is disposed of as having been rendered infructuous.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

January 25, 2021

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO