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

CRM-M-22205-2020
Date of Decision: 18.03.2021

SATNAM SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Prateek Gupta, Advocate for the petitioner
Mr.Sandeep Kumar, Deputy Advocate General, Punjab
Mr.Lokesh Chander Aggarwal, Advocate for the complainant

<u>Deepak Sibal, J.</u> (Oral)

Case taken up through Video Conferencing.

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.36 dated 25.06.2020 registered under Section 420 IPC at Police Station City Ahmedgarh , District Sangrur.

Briefly stated, the case of the prosecution is that the complainant, who is a single lady and a retired school teacher, on coming in contact with the petitioner, a property dealer, disclosed to him that she was facing some litigation qua her property in Ludhiana. On this the petitioner told her that she need not worry as he would take care of her litigation by engaging a good legal team for her. The petitioner further assured the complainant of good returns on investment made through him. On being lured by the petitioner, the complainant, from her savings transferred/ gave funds/ gold ornaments to the petitioner to the tune of Rs.1,19,00,000/- out of which Rs.71,00,000/- were transferred from the complainant's / friends/ relatives bank accounts to the bank accounts of the petitioner and his wife Sarabjit Kaur and the remaining amount of Rs.48,00,000/- was given in the form of cash/ gold jewellery. The petitioner, after having received the aforesaid amounts, duped the complainant as neither was such amount invested nor returned.

Qua the litigation that the complainant was pursuing in the District Courts at Ludhiana, it is the case of prosecution that the petitioner, by playing fraud with the complainant got her to execute in his favour a Special Power of Attorney on the basis whereof he started pursuing the litigation/ negotiating a deal by projecting himself to be the owner of the complainant's property. When the complainant came to know of it she contacted her advocate and got the aforesaid Special Power of Attorney cancelled.

Learned counsel for the petitioner contended that the petitioner has been falsely implicated in the case; Rs.18 lakhs has been returned by the petitioner to the complainant through bank transactions; Rs.55,65,000/- has been returned by the petitioner to the complainant in cash and in this regard attention of this Court was drawn to a receipt dated 08.09.2016 by the complainant; the FIR itself has been illegally registered at Ahmedgarh as no cause of action arose over there and that under the interim orders passed by this Court the petitioner has joined investigation.

Learned State counsel opposed the grant of anticipatory bail to the petitioner by contending that the FIR in question does not lack jurisdiction as the complainant resides in Ahmedgarh; part of the cause of action arose in Ahmedgarh as amounts from the complainant's brother's bank account at Ahmedgarh had been got transferred by the complainant to the petitioner's bank account; cash and gold articles were also given by the complainant to the petitioner in Ahmedgarh; the petitioner has not cooperated with the investigating agency; gold articles as also huge amounts paid to the petitioner are still to be recovered and that the petitioner has taken contradictory stands before this Court showing mala fides on his part.

Learned counsel for the parties have been heard and the relevant record perused.

The petitioner, who is a property dealer, is alleged to have fraudulently allured the complainant, a single lady and a retired school teacher, to part with her savings as also gold jewellery to the tune of Rs.1,19,00,000/- on the pretext of getting the same invested for her. However, after having received the complainant's money/ gold articles and retained it for a prolonged period of time there is nothing on record to show that any investment was made by the petitioner on the complainant's behalf.

The case set up by the petitioner is that in addition to Rs.18 lakhs transferred by him into the complainant's bank account, he has returned to the complainant an amount of Rs.55,65,000/- in cash and in support of such plea, through a miscellaneous application, he has produced a receipt dated 08.09.2016.

The complainant vehemently denies the aforementioned receipt and says that the same was fabricated during the pendency of the present petition when the petitioner was on interim bail.

In the light of complainant's stand that the receipt now produced by the petitioner is a fabricated document as also because such receipt dated 08.09.2016 was neither produced by the petitioner before the Trial Court at the time of pursuing his petition for anticipatory bail nor had it been referred to in the pleadings at the time of filing of the present petition, such stand of the petitioner is suspicious and therefore needs a deeper probe especially when such receipt for the return of a huge amount of Rs.55,65,000/- in cash, is on a simple piece of paper and with no backing of any Income Tax records as it was admitted on behalf of the petitioner that he has never filed an Income Tax return.

Even if the above transactions are accepted, still an amount of Rs.45,35,000/- remains unaccounted for and due towards the petitioner. The same, which includes the complainant's gold jewellery remains to be recovered from the petitioner.

In addition to the above, it is also the prosecution's case that on coming to know that the complainant was facing litigation qua her property at Ludhiana the petitioner fraudulently got the complainant to sign a Special Power of Attorney in his favour and on the strength thereof not only started to pursue such litigation by projecting himself as the owner of such property but also started to negotiate a deal for the same. When the complainant came to know of such acts of the petitioner she contacted her lawyer and took remedial steps.

The issue raised on behalf of the petitioner that the FIR itself could have not been lodged at Ahmedgarh is countered by the State on the ground that the complainant resides at Ahmedgarh; part of the disputed funds were transferred to the petitioner's bank account from Ahmedgarh and that some cash payments were made / gold jewellery was handed over to the petitioner at Ahmedgarh. Thus, this Court is of the view that the issue of territorial jurisdiction would be debated and decided during the petitioner's trial and at this stage no benefit of the same can be derived by him.

In view of the above discussion as also in the light of the specific stand taken by the State that the petitioner has not cooperated with the investigation and has rather remained evasive, this Court is of the opinion that the petitioner does not deserve the concession of anticipatory bail.

Dismissed.

It is clarified that the above observations have been made by this Court to decide the present petition seeking anticipatory bail in which investigation is still going on and therefore these observations be not construed as opinion on the merits of the case.

In view of the fact that the petitioner says that he has transacted for Crores of rupees without filing of any Income Tax Return, a copy of the order be forwarded to Joint Director, Zonal Office, Enforcement Directorate, Income Tax Department, Punjab, with a further direction to said authority to take appropriate action against the petitioner as he/she deems fit under the applicable Income Tax Laws.

18.03.2021 **(Deepak Sibal)**
gk **Judge**

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