

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

CRM-M-25799-2020(O&M)

Date of decision:-8.3.2021

Piara Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Vipin Mahajan, 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 petitioner – Piara Singh, aged about 95 years, resident of village Behluwal, Batala, Tehsil Batala, District Gurdaspur, an accused in FIR No.39 dated 4.3.2020 under Sections 420/406 IPC, registered with Police Station City, Batala, District Gurdaspur.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by

complainant Kuldip Singh son of Sh.Surjit Singh, resident of village Ghasitpur, Batala, District Gurdaspur, who in the written complaint submitted by him addressed to Senior Superintendent of Police, Police District Batala levelled allegations that present petitioner Piara Singh along with Manjit Singh Maruti son of Sucha Singh, resident of Mehta Nangal, Amritsar and Sucha Singh, resident of Amritsar had cheated him of a sum of Rs.6,50,000/- by giving him allurement of managing his migration to America but he neither fulfilled his commitment nor returned his money to him, rather gave him threats. On receipt of the said complaint, the matter was inquired into and then formal FIR was registered.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions at Gurdaspur seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Gurdaspur. However, his such application was dismissed by learned Additional Sessions Judge, Gurdaspur vide detailed order dated 3.8.2020. As such, the present petitioner has come to this Court by way of filing the instant petition praying 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.

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.

In the instant case, the petitioner is specifically named in the FIR and there are clear allegations of his having cheated the complainant and played fraud with him on giving allurements of ensuring his migration to America but without actually doing that and fleecing him of a sum of Rs.6,50,000/-, in the process.

The main ground of defence put forward on behalf of the petitioner/accused while seeking pre-arrest bail is that he is 95 years old and he being in evening of his life could not be expected to get involved in such type of criminal acts and that a false FIR has been got recorded against him.

However, I am not impressed by this contention. No doubt senior citizens are entitled to be treated with courtesy and due regard, but human greed does not accept bar of age, sex, race etc. A person of very advanced age may not be able to shed vice of greed and would indulge in criminal acts to amass money. Therefore, advanced age is no guarantee of a person being not indulging in criminal activities. It has to be taken note of that petitioner/accused had issued two cheques to the complainant Kuldeep Singh dated 10.7.2019 and 11.7.2019, in the sum of Rs.2 lakhs each total Rs.4 lakhs. If the accused had not received any money from the complainant, then where was the occasion to issue such cheques by him to the complainant; that rather corroborates the allegations levelled by the complainant in the FIR that he had paid a sum of Rs.6,50,000/- to the complainant. Those cheques when presented to the banker of petitioner/accused, had been dishonoured.

Another argument advanced on behalf of the petitioner is that

the complainant himself is involved in several criminal cases, as such he should not be believed with regard to truthfulness of allegations in the FIR.

However, I do not find this contention to be acceptable. The credibility of the complainant can be impeached during the trial by showing that he himself is involved in several criminal cases but while considering case of the petitioner/accused for grant of pre-arrest bail, the version set up by the complainant cannot be disbelieved outrightly solely for the reason that the complainant had several criminal cases registered against him. The petitioner/accused is to show that the allegations against him are without any basis and no cognizable offence is shown to have been committed by him. Here from the record, the petitioner/accused comes out to be accused of having committed serious criminal offences. When the instant petition came up for hearing, he was granted interim bail with a direction to join the investigation and he is said to have complied with that direction. However, as informed by the State counsel, he has not come up with all the facts within his knowledge and has not got the recovery of money effected.

The custodial interrogation of the petitioner is found to be necessary for complete and effective investigation to find out how he had done planning of the crime and the mode of its execution, the other persons involved therein and role played by each one of them, how the amount of Rs.6,50,000/- received from the complainant was dealt with, whether it was retained entirely by the petitioner/accused or he had given share therein to his co-accused also, if so, to what extent and when. In

case custodial interrogation of the petitioner 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.

Furthermore, the petitioner/accused is said to be involved in FIR No.197 of 2020 for the offences under Sections 323, 365 etc. of IPC, that goes to show that he has got criminal bent of mind and his credentials are not that clear, which he is projecting as a saintly figure of old age. On 25.1.2021 counsel for the petitioner/accused was asked to get necessary instructions from his client, whether he was ready to deposit the amount said to be subject matter of the fraud. On the adjourned date on 12.2.2021, learned counsel for the petitioner stated that the petitioner is of old age and has financial constraints and some time be granted to him so that he may collect the requisite amount. The case was accordingly adjourned to 8.3.2021 i.e. of today. However, today learned counsel for the petitioner has stated that the petitioner is not to pay any amount to the complainant.

Finding no merits in the petition, the same stands dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove

shall have any bearing on the merits of the case.

8.3.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No