

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34274-2021(O&M)

Date of decision : 09.12.2021

Shubham

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ashit Malik, Advocate
for the petitioner.

Mr.Manish Dadwal, AAG, Haryana.

Mr.Navneet Singh Chhokar, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is the first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.398 dated 22.07.2021 registered under Sections 406, 420 IPC at Police Station Kaithal City, District Kaithal.

On 26.08.2021, this Court was pleased to pass the following order:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.398 dated 22.07.2021 registered under Sections 406, 420 of the Indian Penal Code, 1860 at Police Station Kaithal City, District Kaithal.

Learned counsel for the petitioner inter alia contends that on 05.07.2019, first complaint was filed by father of the petitioner against Prem Singh and S. Das in which it was alleged that in fact, even the father of the petitioner had been duped by the said persons. In the

said proceedings, the statement of the present complainant was also recorded on 10.08.2019 (Annexure P-3) in which even the present complainant had made the allegations against the said Prem Singh and had stated that he alongwith father of the petitioner and other persons have collectively paid a sum of Rs.27,00,000/- to Prem Singh. It is further contended that as per report dated 14.09.2019 (Annexure P-4), the said Prem Singh and S. Das were not available and thus, the present FIR has been registered by the complainant against the petitioner and his family members and another person, by changing his version. It is further submitted that in any way, the petitioner himself is a young boy and is not involved in any case and he has no role to play in the entire incident.

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, accepts notice on behalf of State of Haryana and seeks time to get instructions.

Adjourned to 13.10.2021.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has joined investigation.

Learned State counsel has submitted that in pursuance of the said order, the petitioner has joined the investigation on 15.11.2021 and is not required for further investigation.

Learned counsel for the complainant, on the other hand, has

opposed the present petition for anticipatory bail. It has been submitted that statement dated 10.08.2019 was not signed by the complainant and the complainant never signs in Hindi. For the said purpose, reference has been made to the compromise dated 25.07.2019 (Annexure P-7) annexed in the connected petition bearing CRM-M-38019-2021 to show that even the said compromise has been thumb marked by the complainant as “LTI Ruldu”.

Learned counsel for the petitioner, in rebuttal, has referred to vernacular (Annexure P-3) (page 48) and has stated that the same has been attested by the police and is dated 10.08.2019. It is submitted that the said statement has been signed almost 1 year and 11 months before the registration of the present FIR and the same has been signed after the father of the petitioner had given a complaint dated 05.07.2019 (Annexure P-1) against Prem Singh and S.Das. It is submitted that question of preparing a document 1 year and 11 months prior to the registration of the present FIR in which the father of the petitioner and the petitioner have been involved, does not arise. It is further submitted that no complaint has been made by the complainant against the said police official for having prepared the said document. It is also submitted that merely because on one document the complainant has signed in Hindi and on another, put his thumb impression, cannot even remotely show that the complainant has never signed in Hindi. It is submitted that in fact the petitioner has been made an accused in the FIR, thus, the question of the police helping the petitioner does not arise.

This Court has heard learned counsel for the parties.

The fact that the father of the petitioner had filed a complaint dated 05.07.2019 (Annexure P-1) against Prem Singh and S.Das has not been specifically denied by the learned counsel for the complainant. No

complaint against any police official has been filed by the complainant for recording statement dated 10.08.2019. It cannot be said that a person who has once put his thumb mark on a document cannot sign another in Hindi and in any case, no complaint has been filed against the police official nor any such record has been produced to show that he always puts his LTI thumb impression. The petitioner has joined the investigation and as per the State, he is not required for further investigation and thus keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and the interim order dated 26.08.2021 is made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Since the main case has been decided, pending miscellaneous applications also stand disposed of.

(VIKAS BAHL)
JUDGE

December 09, 2021

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No