

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30777-2020 (O&M)

Date of Decision: 18.03.2021

KULDEEP KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Bhupender Beniwal, A.A.G. Punjab.

Mr. Sunil Garg, Advocate
for the complainant.

HARNARESH SINGH GILL, J.(Oral)

CRM-8542-2021

Application is allowed, as prayed for.

Counter-affidavit along with Annexures P-7 to P-9 are taken
on record, subject to all just exceptions.

CRM-M-30777-2020

Through this petition, the petitioner seeks anticipatory bail in
case FIR No.183 dated 11.09.2019 registered under Section 420 IPC at
Police Station Sadar Patiala, District Patiala.

Learned counsel for the petitioner states that the petitioner has
falsely been implicated in the above noted FIR; that there was a partnership

firm of the petitioner, Sukhwinder Singh, Ranjit Singh and Dharam Singh, in which the petitioner had spent a capital of approximately Rs.15 lakh; that in order to settle the account, Ranjit Singh, the managing partner, had transferred an amount of Rs.8 lakh being the balance share of the petitioner; that however, the complainant falsely alleges the said payment having been made by him to the petitioner; that even otherwise, on the same set of allegations, the complainant has filed a civil suit at Patiala and in the said suit the interim injunction has been granted; that the complainant has cloaked the civil dispute with a criminal proceedings and in view of the law laid down by the Hon'ble Apex Court in R. Kalyani vs Janak C. Mehta, (2009) 1 SCC 516 and Prof R.K. Vijayasathy and Another vs Sudha Seetharam and Another, (2019) 16 SCC 739, the present criminal proceedings are nothing but an abuse of the process of law.

On the other hand, learned State counsel assisted by the counsel for the complainant, while vehemently opposing the prayer for bail, submits that the allegations against the petitioner are serious in nature. It is further submitted that the petitioner is in the habit of duping the people of their hard earned money on the pretext of giving huge returns to them. In the instant case also, the petitioner had given the complainant an allurement of doubling his money and the post dated cheque for Rs.50 lakh, when presented got dishonoured, which clearly shows the fraudulent acts on the part of the petitioner. The learned State counsel has also drawn the attention of this Court towards another case bearing FIR No.436 dated 25.12.2018, which has been registered against the petitioner for having committed the fraud by adopting the same modus operandi.

Having heard learned counsel for the parties, I do not find that any case for grant of anticipatory bail to the petitioner is made out.

Vide order dated 24.11.2020 passed by this Court, the counsel for the petitioner had sought time to file a counter-affidavit as he was disputing the amount of Rs.6,20,000/- allegedly paid in cash by the complainant to the petitioner.

Today, the counter-affidavit filed by the petitioner along with CRM-8542-2021, is taken on record.

In the aforesaid counter-affidavit, the petitioner states that he is ready to return Rs.8 lakh out of which Rs.2 lakh will be paid by 31.03.2021 and Rs.6 lakh within a period of 6 months. Counsel for the petitioner reiterates the said offer today in Court as well.

However, the counsel for the complainant states that the total liability of the petitioner towards complainant is of Rs.50 lakh for which he had also issued a post dated cheque, hence, the aforesaid offer is not acceptable to the complainant.

Be that as it may. This Court proceeds to examine the matter on its merit.

Indisputably, the petitioner had received an amount of Rs.8 lakh through RTGS from the bank account of the complainant. The petitioner though disputes the cash payment of Rs.6,20,000/- to him by the complainant, yet no material could be placed on record to sustain the said assertions. Once, the money had changed the hands and the transfer of the aforesaid amount of Rs.8 lakh in the account of the petitioner from that of the complainant, is established, it is, prima facie, clear that the money

transactions had taken place.

Even in compliance of the order dated 01.10.2020 passed by a Coordinate Bench of this Court, a report by way of affidavit dated 03.11.2020 of Balraj Singh, ASI Police Station Sadar Patiala, District Patiala was filed, wherein the complicity of the petitioner in the crime has clearly been delineated. It is further stated therein that the FIR was registered after a thorough investigation and that the stand of the petitioner that he was falsely implicated, is totally false.

So far as the judgments relied upon by the learned counsel for the petitioner are concerned, the same are not applicable to the facts of the present case as the petitioner cannot be allowed to take benefit of the civil litigation, especially when the dishonest intention, cheating and fraudulent acts are clearly emerging from the allegations levelled in the FIR.

The petitioner himself has enclosed an order dated 17.09.2019 passed by a Coordinate Bench of this Court whereby the petition for anticipatory bail filed by the petitioner in case bearing FIR No.346 dated 25.12.2018 under Sections 406 and 420 IPC, registered at Police Station Civil Lines Patiala, was dismissed.

A perusal of the said order would show that a similar kind of a modus operandi had been adopted by the petitioner in the said case as well and on the similar allurements, the complainant therein was duped of hard earned money. Merely because, the petitioner had been released in the said case by granting him a default bail under 167(2) Cr.P.C., is no ground to grant the prayer made in the present petition.

In view of the above, finding no merit in the present petition,

the same is hereby dismissed.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case before the trial Court.

18.03.2021

Aman Jain

Whether speaking/reasoned
Whether reportable

(HARNARESH SINGH GILL)

JUDGE

: Yes/No
: Yes/No