

101(11) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35782-2020

Date of Decision : 12.10.2021

Sarabjeet Singh

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ranjeet Jaswal, Advocate for
Ms. Amarjit Kaur, Advocate for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

Mr. Premjit Singh Hundal, Advocate
for the complainant-bank.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.33 dated 05.03.2019, registered under Sections 420, 406 and 120-B IPC, at Police Station Sadhaura, District Yamuna Nagar.

2. On 05.11.2020, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.33 dated 05.03.2019 registered under Sections 420, 406 and 120-B of the Indian Penal Code, 1860 at Police Station Sadhaura, District Yamunanagar.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner had taken loan from the Axis Bank against mortgage of his gold. The petitioner did not commit any fraud. The authenticity

of the gold mortgaged by the petitioner was approved by the jeweller who is on the panel of the bank and the petitioner cannot be fastened with any criminal liability for fraud on the allegations of mortgaging fake gold.

The matter involves dispute of civil nature which has been given colour of criminal offence.

Learned Counsel for the petitioner has, on instructions from the petitioner, further submitted that the petitioner undertakes to pay 50% of the loan amount due within 7 days and balance 50% in easy installments thereafter. The petitioner is ready to join the investigation and cooperate in the investigation of the case.

Notice of motion.

Pursuant to supply of advance copy, Mr. Naveen Singh Panwar, DAG, Haryana has appeared and accepted notice on behalf of the respondent-State.

Learned State counsel has submitted that gold mortgaged by the petitioner was found to be fake. The petitioner did not make payment of any loan installment which shows his involvement in fraud of taking loan by mortgaging fake gold. However, learned State counsel seeks time to file detailed reply in this regard.

In view of the facts and circumstances of the case, presence of the complainant is also considered to be necessary for just and proper decision of the petition. Therefore, complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Case is adjourned to 27.11.2020.

Notice to newly added respondent No.2 be issued for that date and notice be also given dasti, if so desired.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do so. In the event of his arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail

bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. and undertaking given by him failing which he shall not be entitled to the protection of interim bail allowed to him.”

3. Today, learned counsel for the petitioner contends while learned State counsel on instructions from *ASI, Suresh Kumar, member of SIT* as well as learned counsel for the complainant-bank, confirms that pursuant to the order of this Court dated 05.11.2020, the petitioner joined investigation, repaid the borrowed loan amount along with interest, fully cooperated with the police, was released on ad interim pre arrest bail and that in the circumstances his custodial interrogation is not required.

4. In view of the statement of learned State counsel, order dated 05.11.2020, passed by this Court, is made absolute. The petitioner shall abide with the conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

5. Petition stands *disposed of* in the aforementioned terms.

(B.S. Walia)
Judge

12.10.2021

rajesh-renu

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>