

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-54211-2021

Date of decision:23.12.2021

Pawan Singh

...petitioner

VS

State of Punjab

...respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.P.K.S.Phoolka, Advocate
for the petitioner

Mr.Rana Harjasdeep Singh, DAG Punjab.

Amol Rattan Singh, J. (Oral)

This is the second petition filed by the petitioner, seeking the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.117, dated 03.10.2018, having been registered at Police Station Arniwala, District Fazilka, alleging therein the commission of offences punishable under Sections 420, 465, 467, 468, 471 and 120-B IPC and Section 4/76 of Chit Funds Act, 1982, with the first petition filed by the petitioner (CRM-M-26077-2020), having been dismissed by this court on 20.09.2021, with the following order passed:-

Case heard by video conference.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.117, dated 03.10.2018, having been registered at Police Station Arniwala, District Fazilka, alleging therein the commission of offences punishable under Sections 420/465/467/468/471/120-B of the IPC and Sections 4/76 of the Chit Funds Act, 1982.

In terms of the orders passed on 21.12.2020 and 10.03.2021, an affidavit of the SSP, Fazilka, is on record (dated 11.03.2021, with it already taken on record 23.03.2021), stating to the effect that the FIR in question is registered against two accused, i.e. the petitioner, Pawan Singh and one Rajwinder Singh, on the application of Veer Pal Kaur, with Rajwinder Singh being a resident of Bathinda, but with him having been in judicial custody in the context of another FIR registered against him; and upon production warrants being obtained to secure his presence, he was also arrested in the context of the FIR in question presently.

He has further stated in the affidavit that the petitioner was actually working as a Field Officer in M/s Dream Way, which is a firm/company started by his co-accused Rajwinder Singh, with both of them alluring the complainant and 100s of others to deposit money in the company, on the promise that they would be given 'domestic articles' etc. but with neither that having been done nor with the money invested having been returned, the total alleged to have been 'gathered' being Rs.4,43,700/-.

Eventually, it has been stated by the SSP that Rajwinder Singh is in custody, but upon the petitioner having joined the investigation on 01.12.2020, he did not co-operate with the investigating officer, in as much as, firstly, the modus operandi of the entire operation is to be determined and money also recovered.

Learned counsel for the petitioner on the other hand submits that Rajwinder Singh also having been admitted to bail subsequently under the provisions of Section 439 of the Cr.P.C., the interim order passed in favour of the petitioner may be made absolute.

Having considered the matter, looking at the allegations against the petitioner with him having falsely stated before this court that he is only a labourer, I see no reason to continue with this petition, which is consequently dismissed, with the interim order vacated.

However, nothing stated by this court in any order shall be taken to be an observation by this court on the merits of the case, for or against petitioner, with naturally the trial court to proceed with the trial wholly on the basis of the evidence led before it.

Today, though, Mr.Phoolka wishes to argue the matter on merits afresh, I would see no reason whatsoever to entertain this petition, this Court

already having taken a view on the merits of the case, including the contentions raised before this Court that the petitioner was a labourer but with the reply of the State being that he was a Field Officer (which fact again Mr.Phoolka refutes).

Therefore, looking at the fact that this Court had already taken a view in the matter and the learned State counsel (even though notice of motion has not been issued) also relies upon a judgment of the Supreme Court in the case of ***“Md.Shamim Khan vs. The State of Jharkhand”, Special Leave to Appeal (Criminal) No.9449 of 2021***, decided on 16.12.2021, that a second such petition should not be entertained (and with in any case this court not inclined to entertain it), the petition is consequently dismissed.

(AMOL RATTAN SINGH)
JUDGE

23.12.2021

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No