

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

**CRM-M-43172 of 2019 (O&M)
DATE OF DECISION: 02.08.2021**

Kakku Khurana @ Vipul Khurana

...Petitioner

Versus

State of Punjab

...Respondent

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

**Present:- Mr. Vipul Aggarwal, Advocate
For the petitioner.**

Mr. J.S. Ghuman, DAG Punjab.

**Mr. Parvinder Singh Guliani, Advocate
For the complainant.**

H.S. MADAAN, J.(ORAL)

1. This petition for pre-arrest bail has been filed by petitioner Kakku Khurana @ Vipul Khurana, an accused in FIR No. 119 dated 19.06.2019 for offences under Sections 420 and 120-B IPC, registered with Police Station City-1 Abohar, District Fazilka.

2. Briefly stated the facts of the case, as per prosecution story, are that in the month of December, 2018, while one Ashpinder Singh, aged 24 years, son of complainant Parampal, resident of village Jhorad, Tehsil Malout, District Sri Muktsar Sahib was going in a car, the car got struck against the police Naka, resulting into happening of an accident, in which one police personnel lost his life. An FIR with regard to the accident was got registered against Ashpinder Singh. He was arrested and lodged in Sub Jail,

Fazilka. In the jail, he met one inmate, who represented that his relative Kakku Khurana i.e. present petitioner is having great contacts and he could get the matter compromised between Ashpinder Singh and family of the accident victim. Ashpinder Singh accordingly informed his father i.e. the complainant, who talked with petitioner on his mobile phone. A meeting between the two was arranged. The petitioner promised to get the matter resolved between the son of the complainant and family of the victim on payment of Rs.25 lakhs. The complainant accordingly paid Rs.10 lakhs to the petitioner as part payment, on Varinder Aneja, an uncle of the petitioner, taking responsibility for getting the work done. However, the petitioner could not get the work done. Amount of Rs.10 lakhs received by the petitioner was not returned to complainant even. In that way petitioner in conspiracy with Varinder Aneja had cheated the complainant.

3. On matter being reported to the police, formal FIR was recorded. Apprehending his arrest in this case, petitioner had approached the Court of Sessions at Fazilka by filing an application for grant of anticipatory bail. However, his said application, which was assigned to Additional Sessions Judge, Fazilka was dismissed vide order dated 23.07.2019.

4. Feeling aggrieved, petitioner-accused has approached this Court for grant of similar relief, which request is being opposed by learned State counsel as well as learned counsel representing the complainant.

5. I have heard learned counsel for the petitioner as well as learned State counsel assisted by learned counsel for the complainant besides going through the record.

6. It is apt to mention here that when this petition came up for hearing before this Court on 07.10.2019, petitioner was granted interim bail with a direction to join the investigation. Subsequently, on 27.11.2019 learned counsel for the petitioner had stated that the petitioner is ready to settle the matter as the FIR is outcome of monetary dispute and a request was made to refer the matter to mediation. Since learned counsel for the complainant was agreeable to the offer, the matter was referred to Mediation and Conciliation Centre of this Court. However, the mediation did not prove to be fruitful. On 16.12.2019 counsel for the petitioner stated that without prejudice to his rights and contentions, petitioner is willing to pay a sum of Rs. 4 lakhs and he had sought time to furnish schedule with regard to payment. Time was accordingly granted to him.

7. On 04.03.2020, the Court was informed that an amount of Rs.2 lakhs had been paid. An affidavit was filed by the petitioner wherein it was mentioned that remaining 2 lakhs would be paid in four instalments, without specifying any time scheduled. Therefore, it was directed that balance amount of Rs.2 lakhs would be paid in four instalments of Rs.50,000/- each commencing from the month of March, 2020.

8. Today, learned counsel for complainant has stated that petitioner has not paid even a single penny to the complainant till date despite directions issued by this Court vide order dated 04.03.2020.

9. Learned State counsel on instructions from ASI Satwinder Singh has informed that petitioner has not joined the investigation so far

despite undertaking given by counsel for the petitioner duly recorded in the order passed by this Court on the last date of hearing.

10. Such type of conduct by the petitioner in openly flouting the directions issued to him by the Court and undertaking given on his behalf by his counsel clearly disentitles him to grant of discretionary equitable relief of pre-arrest bail. Pre-arrest bail is a discretionary relief and it 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.

11. As stated by learned State counsel, custodial interrogation of the petitioner is necessary to effect the recovery and to find out as to how the entire scam was planned and executed and other persons involved therein.

12. I find force in such contention of learned State counsel and I am of the view that if custodial interrogation of the petitioner is denied to the investigating agency, that will leave many loopholes and lacunae in the case adversely affecting the investigation, which is totally uncalled for. Furthermore, the allegations against the petitioner are of cheating the complainant of substantial amount of Rs.10 lakhs on the pretext of getting the dispute of his son resolved with the family of the victim. The allegations are grave and serious. Therefore, the petition is doomed for failure and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

02.08.2021
Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No