

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

102)

**CRM-M-8573 of 2021 (O&M)
Date of Decision:21.01.2022**

Mandeep Sharma

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Mohit Sadana, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab

Ms. Puja Chopra, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On February 24, 2021, the following order had been passed by this
court:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of ‘anticipatory bail’, upon FIR no.117, dated 29.07.2020, having been registered at Police Station Urban Estate, District Patiala, alleging therein the commission of offences punishable under the provisions of Sections 406 and 420 of the IPC.

Learned counsel for the petitioner submits that as a matter of fact the money taken by the petitioner from the complainant was not

for sending the complainant abroad but to start a business for the sale and purchase of gypsum and plaster of paris (as contended), but with no document supporting any such contention placed on record.

Be that as it may, learned counsel submits that the petitioner had actually received a sum of Rs.3.5 lacs out of which Rs.50,000/- had been paid by way of a bank transaction into the account of the complainant on 07.12.2020.

Towards that end he points to the bank statement, Annexure P-5.

He further submits that the petitioner is willing to pay the remaining amount of Rs.3 lacs along with a reasonable interest thereupon, in equal installment of Rs.50,000/- per quarter (every three months), as he does not have the means to otherwise do so, he only being employed as a driver in a taxi stand.

Without making any comment on the actual merit of that contention, notice of motion is issued, with Mr. Ramdeep Partap Singh, learned DAG, Punjab, accepting notice on behalf of respondent State.

Mr. Sandeep Chopra, Advocate, appears and accepts notice on behalf of the complainant, who is ordered to be impleaded as respondent no.2 upon the counsel appearing for the complainant providing the particular of the said respondent to the Registry, with the Registry directed to carry out necessary corrections in the memo of parties.

Upon the petitioner paying a sum of Rs.20,000/- to the newly added respondent no.2 (complainant in the FIR) within one week from today, he would thereafter join investigation immediately and if he is sought to be arrested, he shall be released on interim bail, upon his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

He shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

After the initial sum of Rs.20,000/- has been paid by March 02, 2021, he would pay another sum of Rs.30,000/- by 20.03.2021 and after which he would pay Rs.50,000/- every three months, by way of a bank draft/bank transaction to the complainant.

Adjourned to 05.03.2021.

In the meanwhile, since the contention of the learned counsel for the complainant is that actually the petitioner took a sum of Rs.4 lacs from her, he would place on record necessary documents to show that it was actually Rs.4 lacs and not Rs.3.5 lacs.

Till the interim bail for one week from today, the petitioner be not arrested.

Thereafter, of course if he does not join investigation in terms of the order hereinabove, naturally this order shall be deemed to not have been passed.”

Thereafter on 18.08.2021 the following order had been passed by this court (coordinate Bench):-

“(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court).

Learned counsel for the petitioner has apprised this court that the payment of Rs.50,000/-, which was required to be paid in the month of July, 2021 could not be made on account of certain circumstances beyond the control of the petitioner. However, it is an admitted fact that a total payment of Rs.1 lakh has already been made.

Learned counsel appearing for the complainant has no objection if small accommodation is accorded to the petitioner to make the

compliance.

On request, adjourned to 21.09.2021, with a direction to the petitioner to pay Rs.50,000/- on or before 31.08.2021. If the compliance of this order is not made, the protection granted vide order dated 24.02.2021 shall be seized to have effect.

On 21.09.2021 learned counsel for the complainant had submitted that the petitioner had paid Rs.50,000/- to the complainant on 09.09.2021, with counsel for the petitioner having undertaken that he would pay the next installment of Rs.50,000/- by September 30, 2021.

However, on 14.10.2021 learned counsel for the complainant had informed this court that the said undertaking had not been honoured by the petitioner, with no further amount having been paid by him.

Counsel for the petitioner was not present on that date and the turn of the case having come up after 4:00 p.m., the interim order was not vacated and hearing in the matter adjourned to 25.10.2021.

On that date, after reproducing the orders earlier passed, the contention of learned counsel for the complainant had been noticed to the effect that another sum of Rs.50,000/- had been received by the complainant a few days earlier, though not on 30.09.2021.

Consequently, the petitioner had been directed to pay simple interest @ 6% per annum on the delayed payments of Rs.50,000/- each as were to be made by June 30, 2021 and September 30, 2021 in terms of the order dated 24.02.2021.

Interim protection to the petitioner had then been continued on the condition that he would pay another sum of Rs.50,000/- plus interest on delayed

payment by 31.12.2021; and if he did not do so the interim order passed on 24.02.2021 (directing him to join investigation and to be admitted to interim bail), would stand vacated on the next date of hearing, i.e. 07.01.2022.

On 07.01.2022 counsel for the petitioner had not come present again, despite which the interim order had been continued though in the previous order passed on 25.10.2021 it had been stated that if the amount as directed vide that order was not found to have been paid by 07.01.2022, the interim order would stand vacated, with no further order required to be passed in that regard.

Hearing in the matter had therefore been adjourned, with the interim order continued even on 07.01.2022, till today.

Today learned counsel for the petitioner submits that he has nothing further to say except to apologize for the conduct of the petitioner in not paying the amount directed even vide the order dated 25.10.2021.

That being so, with learned counsel for the complainant in any case having submitted that the said amount has not been paid to the complainant, I see no ground to entertain this petition any further, which is consequently dismissed and the interim order vacated.

January 21, 2022
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No