

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

210

CRM-M-19522 of 2022 (O&M)

Date of Decision: 30.11.2022

Deepak Mittal

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Sehej Sandhawalia, Advocate,
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab

Mr. G. S. Madaan, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.0009 dated 07.01.2022, under Sections 420 and 120-B IPC, registered at Police Station Moti Nagar, Ludhiana.

Learned counsel for the petitioner has submitted that it is a case where the allegations against the petitioner were that he alongwith other co-accused in connivance with each other had taken an amount of Rs.25,00,000/- in cash from the complainant and thereafter the petitioner had given a cheque of the same amount pertaining to a bank account which was already closed. She submitted that it is a case where there was a financial dispute between the parties and the complainant in order to pressurise the petitioner and the other co-accused had got this FIR lodged for the purpose of recovery of money as demanded by the complainant. She submitted that the petitioner never issued

any cheque and rather denies the signatures on the cheque and apart from the above even the complainant has already filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 before the learned Judicial Magistrate which is still pending. She further submitted that be that as it may, this Court had granted interim bail to the petitioner on 09.05.2022 and in pursuance of the aforesaid order, the petitioner has already joined investigation and he has fully cooperated with the investigation process and has prayed that the interim bail granted to the petitioner may be confirmed.

On the other hand, Mr. Amit Rana, learned Senior Deputy Advocate General, Punjab has stated, on instructions from ASI Ajmer Singh, that it is correct that in pursuance of the aforesaid order dated 09.05.2022, the petitioner has joined investigation. He has however submitted that the amount of Rs.25,00,000/- has not yet been recovered from the petitioner.

Learned counsel appearing on behalf of the complainant has opposed the grant of anticipatory bail to the petitioner on the ground that the petitioner has committed a fraud upon the complainant by issuance of the cheque pertaining to an account which was not in operation.

I have heard the learned counsel for the parties.

There appears to be a financial dispute between the parties. In pursuance of the order passed by this Court on 09.05.2022, the petitioner has already joined investigation. The only objection which has been taken by the learned State counsel was that the amount of Rs.25,00,000/- has not yet been recovered from the petitioner. However, during the course of arguments, Learned counsel for the petitioner has stated that no such amount was

taken by the petitioner and even as per the allegation, the amount of Rs.25,00,000/- was purportedly taken by way of cash. She further submitted that even the cheque of Rs.25,00,000/- was never issued by the petitioner and the matter is still pending before the learned Magistrate in a complaint under Section 138 of the NI Act. Therefore, this court is of the view that apparently it is a case of disputed question of facts and the only objection which has been taken by the learned State counsel that the amount has not been recovered, cannot be sustained because the police cannot act as recovery agents. During the course of arguments, a query was raised to the learned counsel for the complainant as to whether any civil suit has also been filed for the recovery of the amount, he stated that no such suit has been filed. The petitioner has already joined investigation in pursuance of the order dated 09.05.2022 passed by this Court.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant anticipatory bail to the petitioner. Consequently, the present petition is allowed and the order dated 09.05.2022 is hereby confirmed.

(JASGURPREET SINGH PURI)
JUDGE

November 30, 2022

dinesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No