

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21428-2021

Date of Decision: 27.04.2022

Sucha Singh

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. B.B.S. Randhawa, Advocate for the petitioner.

Ms. Ishneet Kaur, Assistant Advocate General, Punjab.

Mr. G.S. Dhillon, Advocate with
Mr. Anil Kumar Chauhan, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.51 dated 07.04.2021, under Sections 420, 406 and 120-B IPC, registered at Police Station Sadar Batala.

The learned counsel for the petitioner has submitted in pursuance of the orders passed by this Court on 01.07.2021 the petitioner has already joined investigation and he is also fully cooperating with the investigation process. He further submitted that it is a case where the

allegations against the petitioner were that he has entered into an agreement with the complainant Gurbhej Singh and has taken an earnest money of Rs. 29 lacs from him and although allegedly the petitioner had stated at the time of agreement that he will clear the loan of the bank but the same was not cleared and, therefore, agreement could not be honoured. He further submitted that there are further allegations against the petitioner that he has taken earnest money not only from Gurbhej Singh but he has also taken earnest money from three more persons and, therefore, he has committed a fraud. He further submitted that it is a case where the subject matter is purely of a civil nature and not only Gurbhej Singh but also the other complainant who was joined later on namely Kulwinder Singh has also filed a suit for specific performance against the petitioner which is pending. He further submitted that the present petition has been filed seeking grant of anticipatory bail and the petitioner has fully cooperated with the investigation process and, therefore, interim bail granted to the petitioner may be confirmed.

Ms. Ishneet Kaur, learned Assistant Advocate General, Punjab has stated that the Investigation Officer namely ASI Sukhjinder Singh who is also present in the Court today and she has sought specific instructions from him and has stated that in pursuance of the orders passed by this Court on 01.07.2021 the petitioner has already joined investigation and he has fully cooperated with the investigation process. She further submitted on specific instructions from the I.O who is present in the Court that the petitioner is not required for custodial interrogation.

At this stage, Mr. G.S. Dhillon, learned counsel appearing on behalf of one of the complainant namely Kulwinder Singh has stated that it is a case of cheating and fraud and recovery of money is yet to be effected from the petitioner and even the possession of the land is also with the petitioner and the case in the Civil Court will take long time and, therefore, it will not be in the interest of justice to grant anticipatory bail to the petitioner because custodial interrogation was required for recovery of money from him.

I have heard the learned counsel for the parties.

The allegation against the petitioner was that he has cheated some persons and has executed agreement to sell and thereafter the same was not honoured and the bank loan was also not cleared. As per the learned counsel for the parties separate suit for specific performance has also been filed which is subjudice. The learned Assistant Advocate General has specifically stated on instructions that the petitioner has joined and cooperated with the investigation process and he is not required for custodial interrogation. The argument raised by Mr. G.S. Dhillon, learned counsel for one of the complainant namely Kulwinder Singh that the custodial interrogation of the petitioner is required for recovery of money from the petitioner is not sustainable because the police cannot become recovery agent in such like matters. Further argument raised by the learned counsel for the complainant that even for the purpose of recovery of some of the documents and record, the custodial interrogation of the petitioner is required would also be not sustainable in view of the fact that the State has

already taken up a specific stand today that the petitioner has cooperated with the investigation process and is not required for custodial interrogation.

In view of the aforesaid factual position, the present petition is allowed and the order dated 01.07.2021 is hereby made absolute.

27.04.2022
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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