

201
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23495-2021

Date of Decision: 06.01.2022

Ankush

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.C. Shahpuri, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Diwan S. Adlakha, Advocate, for the complainant.

Through Video Conferencing

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.188 dated 18.05.2021, under Sections 420/406 IPC and Section 10/24 of Immigration Act, 1983, registered at Police Station City Jagadhri, District Yamuna Nagar.

The learned counsel for the petitioner has submitted that in the present case the petitioner has been falsely implicated and the allegations against the petitioner are that he had taken an amount of Rs. 10 Lakhs from the complainant on the pretext of sending him abroad and since he did not do the needful, the present FIR has been lodged against the petitioner. He further submitted that even as per the allegations an amount of Rs. 10 Lakhs was taken by way of cash by the petitioner which is highly improbable. He further

submitted that the petitioner is not doing any business of any kind of immigration agency or travel agent and it was only to falsely implicate the petitioner that such a story has been concocted by the complainant. He further submitted that the allegation against the petitioner that he had taken the passport of the complainant is also false and in fact the petitioner had not taken any kind of document from the complainant. He further submitted that in fact the petitioner had some dispute with one Amit and he had given some signed cheques to the aforesaid Amit and had executed some documents and those cheques were ultimately mis-utilized by the complainant and a complaint under Section 138 of the Negotiable Instruments Act, 1881 was also filed against the petitioner which is still pending. He further submitted that on 29.06.2021 this Court had directed the petitioner to join investigation and had granted interim protection to the petitioner and in pursuance of the same, he has already joined investigation and he has fully cooperated with the investigation process and, therefore, he has prayed that the interim order passed by this Court may be made absolute. He further submitted that petitioner is not involved in any other case and has clean antecedents.

Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that the petitioner had duped the complainant of Rs. 10 Lakhs which he has taken by way of cash and has also not returned the passport to him as per instructions. He further submitted that it is correct that in pursuance of the orders passed by this Court the petitioner has joined investigation but he has not cooperated with the investigation process to the extent that recovery of Rs. 10 Lakhs is yet to be made and the passport is yet to be recovered. He further submitted that it is correct that the petitioner is not involved in any other case.

Mr. Diwan S. Adlakha, learned counsel for the complainant has submitted that the petitioner is not entitled for the grant of anticipatory bail in view of the fact that the petitioner has not returned back the money to the complainant and has also not returned the passport to him.

I have heard the learned counsel for the parties.

On 29.06.2021 this Court had granted interim protection to the petitioner subject to his joining of investigation and cooperating with investigation process. The petitioner in pursuance of the aforesaid orders has joined investigation. However, an objection has been taken that since the recovery of the amount has not been made, therefore, the petitioner has not cooperated with the investigation process. As per the allegations contained in the FIR, the petitioner had allegedly taken Rs. 10 Lakhs in cash on the pretext of sending the complainant abroad. The petitioner is admittedly not involved in any other case and has clean antecedents. It is a settled law that the police cannot become recovery agents and the objection taken by the State and the counsel for the complainant that the petitioner should be denied the benefit of anticipatory bail only on the ground that recovery of money is to be made cannot be sustained. The liberty of an individual cannot be curtailed only on the ground for recovery of money particularly when debatable questions of facts are involved and especially in view of the background of the petitioner which according to the learned counsel for the parties, the petitioner is not involved in any other case and has clean antecedents. So far as the other objection pertaining to the non-returning of passport is concerned, the learned counsel for the petitioner has specifically submitted that the petitioner is neither working as travel agent or an immigration agent and he has not received any kind of passport from the complainant and according to the learned counsel for the petitioner, the FIR was only a concocted story because

the subject matter of dispute of the petitioner was with some other person namely Amit and to whom he had issued cheque and even proceedings under Section 138 of the Negotiable Instruments Act, 1881 are still pending.

In view of the aforesaid factual position, this Court deems it fit and proper to grant anticipatory bail to the petitioner.

Consequently, the present petition is allowed and order dated 29.06.2021 is hereby made absolute.

06.01.2022

(JASGURPREET SINGH PURI)

rakesh

JUDGE

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