

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

206

CRM-M-27097-2021

Date of Decision : January 25, 2022

AMARJIT SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. Ravi Malhotra, Advocate
for the petitioner.

Mr. Amandeep Gill, Sr. DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.38 dated 27.5.2021 under Sections 420 and 406 of IPC and Section 24 of the Immigration Act, 1983, registered at Police Station, Morinda, District Rupnagar.

As per the FIR, a complaint was lodged to the police by the complainant-Navdeep Singh son of Amrik Singh against the present petitioner and three more persons on the ground that they had cheated him and taken Rs.10 lacs on the pretext of sending him abroad (Italy). As per the allegations, one of the co-accused, namely, Khushwinder Singh, who is stated to be the neighbourer of the complainant told him that another co-accused, namely, Malkit Singh, who is the son of the present petitioner happened to be his maternal uncle in relation and does the work

of sending people abroad and that he will get permanent work at Italy and get him introduced with his maternal uncle, namely, Kuldeep Singh and told him that he will get him permanent settled in Italy and it will cost Rs.10 lacs. The aforesaid amount of Rs.10 lacs was paid at different times to different accused. Thereafter, in June, 2019 the complainant went to Italy and Malkit Singh who is the son of the petitioner came at Italy airport and took him from there and left him a room and then he got job of plucking fruits but that work was available for four months only and thereafter Malkit Singh told him that in case he wanted to do more work then he will have to pay 7000 Euro more but thereafter a dispute arose between them and the complainant came back to India in November 2019 and after that he disclosed to his family members that foul play has been committed upon him and the accused had cheated him of Rs.10 lacs.

The learned counsel for the petitioner has submitted that the petitioner is an old man of 70 years of age and it was only because of enmity that his name has been mentioned in the FIR. He submitted that the petitioner is neither a travel agent nor an immigration agent and the present case has been planted upon him. He further submitted that the petitioner has clean antecedents and he is not involved in any other case. He submitted that even as per the allegations contained in the FIR, the nature of dispute, if any, was financial dispute which cropped up between the complainant and the son of the petitioner, namely, Malkit Singh, who resides at Italy and the said dispute was of a civil nature which has been given a criminal flavour by the police and the complainant. He submitted that even as per the contents of the FIR the complainant had gone to Italy

and stayed there and did some job but due to the dispute with the son of the petitioner, he had come back and, therefore, no offences under Sections 420 and 406 IPC could be made out on the face of it. He has further submitted that he is being harassed only because of the fact that he is the father of Malkit Singh with whom the complainant had a dispute and the petitioner being an old man of 70 years of age, he may be considered for the grant of anticipatory bail. He has submitted that in pursuance of the order passed by this Court on 15.7.2021, the petitioner has joined the investigation and cooperated with the investigation process and remained in the police station for about 7 hours and answered all the questions put to him by the police and, therefore, the order granting interim protection to the petitioner may be confirmed.

On the other hand, Mr. Gill, learned Sr. DAG, Punjab has submitted that an affidavit has been filed by the DSP, Sub Division, Chamkaur Sahib, District Rupnagar and while referring to the affidavit, he has submitted that the petitioner alongwith other co-accused had cheated the complainant and taken Rs.10 lacs and had not returned the same and, therefore, has opposed the grant of anticipatory bail to the petitioner. He further submitted that in pursuance of the order dated 15.7.2021 granting interim protection, the petitioner has joined the investigation but he did not cooperate with the investigation process because recovery has not been effected and the petitioner did not disclose the whereabouts of the other co-accused.

I have heard the learned counsels for the parties.

It is an admitted position that in pursuance of the order passed by this Court on 15.7.2021, the petitioner has joined the investigation. The petitioner is an old man of 70 years of age. However, an objection has been raised by the learned State counsel while opposing the grant of bail to the petitioner that since the amount of Rs.10 lacs has not been recovered from the petitioner and he has not given the details of the other co-accused, he may not be granted the concession of anticipatory bail is the point of consideration before this Court. So far as the first objection is concerned with regard to the non-recovery of alleged amount, it cannot be become a ground for denial of bail because it is a settled law that the police cannot become recovery agents by lodging an FIR. So far as the second objection raised by the learned State counsel is concerned, a specific query was put to the learned counsel for the petitioner as to whether he has disclosed the names of the other co-accused or not and one of the accused is the son of the petitioner, he has submitted that he was interrogated for 7 hours and he has supplied all the information to the police whatever he had with regard to the details of the other co-accused and now the police cannot take up this plea that he should be denied bail only on the ground that he did not disclose the information. He has further submitted that the petitioner is being harassed by the police and in case any sort of information is further required, he undertakes to cooperate with the investigation process and supply all the information and, therefore, considering the allegations contained in the FIR and the age of the petitioner, the same cannot become a ground for denial of bail to the petitioner.

In view of the above, the present petition is allowed and other order dated 15.7.2021 is made absolute. It is directed that the petitioner shall keep on cooperating with the investigation process and in case during investigation the police gives any kind of questionnaire to the petitioner, the petitioner shall be bound to answer the same in writing. In the event of his arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

January 25, 2022

ajay-1

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No