

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-35286-2022 (O&M)
Date of Decision:-27.10.2022

Gagandip Singh Khurana ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate;
Mr. Prabhdeep Singh Bindra, Advocate and
Mr. Nikhil Ghai, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab,
assisted by ASI Hardeep Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.27, dated 28.1.2022, Police Station Haibowal, District Ludhiana, under Sections 420, 120-B of Indian Penal Code and Section 66-D of Information Technology Act.
2. At the time of issuance of notice of motion, the following order was passed on 9.8.2022:

“The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No. 27 dated 28.1.2022, Police Station Haibowal, District Ludhiana, under Sections 420, 120-B IPC and Section 66-D of

Information Technology Act wherein it is alleged that the accused had cheated the complainant of an amount of Rs.1000/- on the pretext for arranging for a loan. It is the case of prosecution that during the course of inquiry it was found that the complainant had cheated several other persons.

Learned counsel for the petitioner submits that the matter is in fact stands amicably resolved amongst the parties.

Notice of motion for 6.9.2022.

At this stage, Mr. Harpreet S. Multani, AAG, Punjab, accepts notice on behalf of State of Punjab.

Learned State counsel to file a detailed reply indicating the extent of fraud and as to how many persons had been defrauded and also as regards the role of the petitioner.”

3. Subsequently on 14.10.2022, this Court had specifically directed the petitioner to join the investigation. The said order reads as under:-

“The learned counsel submits that he is nowhere named in the FIR and has been nominated as an accused subsequently on the basis of alleged disclosure statement of Sunil Chopra. The learned counsel submits that even as per the case of the prosecution, the amount defrauded has been deposited in the bank account of co-accused Ankit Kumar Kashyap and also in the bank accounts of co-accused Sunil Chopra and Mukesh and that there is no allegation that any amount has been deposited in any account of the petitioner. It has been submitted that the petitioner otherwise is not involved in any other case.

List on 27.10.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer

and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.”

4. Learned counsel for the petitioner has submitted that it is a case where the petitioner is nowhere named in the FIR and that even during the course of investigation, nothing has surfaced so as to show the involvement of the petitioner and that, in these circumstances, the petitioner deserves the concession of anticipatory bail.
5. Opposing the petition, learned State counsel submitted that since the petitioner has specifically been nominated by a co-accused namely Sunil Chopra, therefore, the complicity of the petitioner is clearly evident.
6. The FIR came to be lodged at the instance of one Varun Kumar Gandhi, wherein it is alleged that he had been cheated by a company by the name ‘Kavita Group Loan’ and that he had been made to part with an amount of Rs.1,000/- on the pretext that a loan of Rs.3 lakhs would be sanctioned in his favour but no such loan was ever extended to him and that, in these circumstances, he had been cheated by the accused. During the course of investigation, the police found that accused Sunil Chopra, Mukesh, Ankit Kumar Kashyap and Gagandip Singh Khurana (petitioner) had defrauded innocent people of an amount of about Rs.2.8 crores by holding out promises of sanction of loans.
7. The learned State counsel has informed that it has been found that as many as 25 bank accounts had been opened in the names of Ankit Kumar Kashyap, Sunil Chopra and Mukesh, wherein huge amounts had been deposited and had been withdrawn shortly after deposit, which would clearly reflect on the *modus operandi* of the accused. Upon a specific query made by this Court,

learned State counsel informed that none of the said bank account was found to be opened in the name of the petitioner or being operated by him and that as on date, the only evidence against the petitioner is in the shape of disclosure statement of co-accused Sunil Chopra. The learned State counsel has further informed that the petitioner pursuant to interim directions issued by this Court has since joined the investigation and is not required for any custodial interrogation.

8. This Court has considered the rival submissions.
9. The petitioner has been named on the basis of a disclosure statement made by co-accused Sunil Chopra. None for the bank account in which the defrauded amount had been deposited is in the name of the petitioner. In these circumstances, the involvement of the petitioner would be debatable. The petitioner, otherwise, is stated to have joined investigation and is not involved in any other case.
10. Having regard the aforesaid facts and circumstances, wherein the petitioner is stated to have joined investigation and is not required for any custodial interrogation, the instant petition is accepted and the interim directions issued by this Court vide order dated 14.10.2022 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.
11. It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

27.10.2022

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Whether speaking /reasoned
Whether Reportable

(Gurvinder Singh Gill)
Judge

Yes / No
Yes / No