

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38928-2020
Reserved on: 07.04.2022
Pronounced on: 18.04.2022

Jitender Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shekhar Verma, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana

Mr.Akshit Aggarwal, Advocate for the complainant

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
368	19.9.2020	Farakpur, Tehsil Jagadhari, District Yamuna Nagar, Haryana	420, 406, 506 IPC, 1860 and Section 10 of Immigration Act

1. The petitioner apprehending arrest in the FIR captioned above came up before this Court under Section 438 CrPC seeking anticipatory bail. Vide order dated 24-11-2020, this court had granted interim bail to the petitioner in the FIR captioned above and it was not a blanket bail in all FIRs.
2. As per bail application and the response of the State, the petitioner has following criminal history:

Sr. No.	FIR No.	Date	Offences	Police Station	Status
1	0042	22.02.2020	306/34 IPC, 1860 registered against Vikas Kumar @ Vikas Chandlana	Nissing District Karnal	Petitioner is the complainant
2	0057	02.02.2022	420, 406, 506 IPC, 1860 and Section 24 of the	Nissing, District Karnal Haryana	

			Immigration Act.		
3	088 on a complaint dated 26.02.2021	25.03.2021	406, 420 IPC	Nissing District Karnal	Petitioner is the accused and he is on bail
4.	129	31.03.2022	406, 420 IPC, and 24 of Immigration Act.	Nissing District Karnal	Arrested

3. Ld. Counsel for the petitioner contends that the petitioner had joined investigation and fully co-operated.

4. Ld. counsel submitted that the complainant had paid money to the brother of the deceased and not to the petitioner, and since his brother committed suicide, as such he wants to recover money from the petitioner and has levelled false allegations. Ld. counsel draws attention to the bank entries as per which only Rs. 75,000/- was transferred in his account by his brother which was no way connected with petitioner.

5. Ld. counsel appearing for the State contends that the petitioner has indulged in cheating and thuggee is raising its ugly head, and it's the time to nip the evil in the bud. The contention of behalf of the complainant is that the petitioner is not entitled to any bail.

REASONING:

6. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. In Maulana Mohd Amir Rashadi v. State of U.P., (2012) 3 SCC 382, Hon'ble Supreme Court holds,

[10] It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second

respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.

8. The transfer of money in the petitioner's account can be due to internal family arrangements and prima facie cannot be construed as the proceeds of the cheating amount. In the light of the judicial precedents mentioned above, the criminal past shall not come in the way of the petitioner in the background of the allegations levelled in this FIR.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition allowed. Interim order dated 24-11-2020 granting interim bail is made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

April 18th 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.