IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

CRM-M-44984 of 2021
Date of Decision:27.01.2022

Kuldeep Singh

...... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. G.L. Bajaj, Advocate,
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab

Mr. Vikram Jeet Singh, Advocate,
for the complainant.

*****

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 01.11.2021 the following order had been passed by this court:-

> “Case heard via video conferencing.
>
> By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 0138, having been registered at Police Station Machhiwara, Police District Khanna, on 08.08.2021, alleging therein the commission of offences punishable under the provisions of Sections 420/120-B of the IPC.
>
> Learned counsel for the petitioner points to the fact that in fact it was the petitioner who filed a civil suit against the complainant in the FIR, i.e. Harjit Singh, in January 2020, seeking a recovery of Rs. 5,18,000/- as the principal amount, on the ground that the said amount

had been borrowed by the defendant (complainant) from him and it was by way of return of that amount (borrowed in December 2017), that the defendant subsequently transferred various amount of money between December 2017 and November 2018 into the account of the petitioner, from the account of the complainants' mother.

He further points to the copy of the civil suit as has been annexed as Annexure P-3 with the petition in that regard.

However, it it seen that in fact as per the FIR itself, the complainant had seemingly filed an application on 24.01.2020 against the petitioner and his wife, alleging that they had defrauded him of a large sum of money on the promise of sending him abroad.

Strangely, though the FIR itself refers to various transactions between the account of the petitioner and of the complainant, the civil suit finds no mention, even though a DSP is stated to have investigated into the matter.

The complainant in the FIR, i.e. Harjit Singh, is ordered to be impleaded as respondent no. 2 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties, after taking his particulars from the copy of the FIR (copy Annexure P-1).

Notice of motion.

On the asking of the court, Mr. Rana Harjasdeep Singh, D.A.G., Punjab, accepts notice on behalf of the respondent-State.

A copy of the petition be emailed to learned State counsel by counsel for the petitioner today itself.

Adjourned to 16.12.2021.

Respondent no. 2 be served by way of normal process by the next date of hearing.

The Senior Superintendent of Police, Police District Khanna, is directed to file a detailed reply to the petition, keeping in view obviously the aforesaid contention of the petitioner as regards the civil suit filed.

> In the meanwhile, upon the petitioner joining investigation within one week, in case he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.
>
> He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.
>
> If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court."

Pursuant thereto, an affidavit dated 13.12.2021 has been filed by the SSP, Khanna, which is ordered to be taken on record.

As per the said affidavit, it was found that an amount of Rs.9,94,000/- was transferred by the complainant from his bank account to that of the petitioner, in December 2017; and thereafter another amount of Rs.3,17,000/- was transferred in November 2018, after which the complainant was found to have (as per the investigation) also given amounts of Rs.2,00,000/-, Rs.3,00,000/- and Rs.1,59,000/- to the petitioner, though he could not produce receipts thereof.

It has next been stated that as regards the contention of the petitioner that the amounts were returned to him on account of some loan given by him to the complainant, no such documentation was produced by the petitioner, though he is stated to have joined investigation pursuant to the last order passed.

Keeping in view the above, with bank transfers having been found to be made of large amounts to money in the years 2017 and 2018, to the account of the petitioner, with even today counsel for the petitioner not able to produce any document showing that there was any loan given by him to the petitioner, I see no ground to entertain this petition, which is consequently dismissed and the interim order vacated.

It is made clear however that all observations made in this petition are in the context of such petition only, filed under the provisions of Section 438 of the Cr.P.C.

January 27, 2022 **(AMOL RATTAN SINGH)**
dinesh **JUDGE**

Whether speaking/reasoned	Yes
Whether Reportable	No