

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

CRM-M-46539-2022 (O&M)

Date of Decision: 11.10.2022

Ranjit Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:-HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Anshul Mangla, Advocate for the petitioner

Mr.GS Sandhu, DAG, Punjab

Mr.Gulzar Mohammed, Advocate for complainant

...

CRM-38207-2022

This is an application for placing on record Annexure P-3. The application is allowed as prayed for.

CRM-M-46539-2022

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.235 dated 19.8.2022 under Sections 406, 420, 120-B of the IPC and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014 registered at P.S. Rama Mandi, Jalandhar.

It is alleged in the complaint that the son of the complainant having completed his B.Tech, intended to go to Canada for his permanent establishment in Canada. The accused persons are alleged to have cheated the complainant by taking amount of Rs.15,00,000/- from him on different

dates in different bank accounts. They have neither sent the son of the complainant abroad nor have returned the money.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has not been named in the FIR. He is sought to be implicated on the basis of disclosure statement made by co-accused. The petitioner has nothing to do with the offence as alleged in the FIR. Learned counsel further submits that nothing is to be recovered from the petitioner and thus no custodial interrogation is required. In support of his submission, learned counsel relies on a judgment of the Hon'ble Supreme Court in **Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273**.

On the contrary, learned counsel for the State assisted by the learned counsel for the complainant submits that the petitioner alongwith other co-accused have committed serious offence and a huge amount is involved in this case which is yet to be recovered. Learned counsel for the State also submits that the investigation is at initial stage and recovery is yet to be effected from the accused persons and as such custodial interrogation of the petitioner is necessary for finding out the *modus operandi* of commission of offence.

Having heard learned counsel for the parties, I am of the considered opinion that there are chain of events and persons in the commission of offence, as per prosecution story. There are serious allegations of enticing, fraud and cheating and prima facie involvement of the petitioner in the commission of offence in connivance with other co-accused. During investigation, the name of the petitioner who is owner of Punjab Money Transfer, Rampura Phul and also doing the business of Travel

and Lakhwinder Kaur, whose name has been disclosed by accused Manjit Singh. A hefty amount is involved which is yet to be recovered. Such act and conduct is required to be viewed with all seriousness. In this view of the matter, I do not deem it a fit case for grant of concession of anticipatory bail to the petitioner. The petitioner's custodial interrogation is necessary for complete and effective investigation. In case the same is denied to the investigating agency, it would leave many gaps and loopholes, adversely affecting the investigation, which is uncalled for. Moreover, investigation is at initial stage. The judgment relied upon by the learned counsel for the petitioner in **Arnesh Kumar (supra)** is not applicable to the peculiar facts and circumstances of the present case.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997) 7 SCC 187** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not

be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume]that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein above shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

11.10.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>