

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

CRM-M-48157-2022

Date of Decision: 18.10.2022

Bunty Sharma @ Jatinder Kumar

... Petitioner

Versus

State of Punjab

... Respondents

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

Present: Mr.Achin Gupta, Advocate for the petitioner

Mr.GS Sandhu, DAG, Punjab

...

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to him in FIR No.232 dated 2.7.2022 under Sections 420, 120-B of the IPC registered at Police Station City Ferozepur, District Ferozepur.

Learned counsel for the petitioner, *inter alia*, contends that present case has been lodged falsely against the petitioner. There is unexplained delay of 1 year 6 months in registering the FIR. No specific role has been attributed to the petitioner. As per allegations in the FIR, the complainant transferred Rupees one Lac in the account of Naresh Kumar who is son of the petitioner, on 7.3.2021 through Google Pay. Naresh Kumar transferred Rs.50,000/-, Rs.10,000/-, Rs.10,000, Rs.5,000/- in the account of Geeta Devi wife of Ram Kishan on 7.3.2021 and Rs.25,000/- in the account of Vikash Sharma on 1.9.2021. The petitioner did not receive any amount from the complainant. Learned counsel submits that complainant obtained two cheques from the petitioner by putting pressure upon him, regarding which he has already filed a suit for mandatory injunction directing her to hand over his cheques. Learned counsel submits

that nothing is to be recovered from the petitioner and as such no custodial interrogation is required.

On the contrary, learned counsel for the State submits that FIR has been registered on the complaint moved by complainant Jyoti Dhawan stating therein that her maternal uncle-in-law Kala Ram Kakkar is residing at Faridkot and Vikas Sharma, who is doing government job in District Courts, Faridkot was on visiting terms with him. She came incontact with Vikas Sharma, who assured her that he would arrange job for her in post office and in lieu of that, he demanded Rs.8,00,000/-. She transferred a sum of Rs.4,00,000/- in his account through Google Pay. Learned counsel submits that S.P. (Operation), Ferozepur found that Jyoti Dhawan at the instance of the petitioner transferred an amount of Rs.3800/- on 10.2.2021, Rupees one lac on 7.3.2021 in the account of Naresh Sharma son of the petitioner. Some other amounts of Rupees one lac, Rs.5,000/-, Rs.20,000/-, Rs.10,000/- and Rs.60,000/- were also transferred into the account of Vikash Sharma through Google Pay. An amount of rupees 2 lacs was paid in cash to Vikas Sharma. In this way, the petitioner in connivance with each other cheated the complainant.

Having heard learned counsel for the parties, I am of the view that the petitioner has been specifically named in the FIR and there is specific role attributed to him. The allegations of cheating against the petitioner and his son in collusion with each other are serious in nature. Investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence and for recovery of the hefty amount. 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 ensconded 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 shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

18.10.2022
MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No