

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

208

CRM-M-50128-2022
Date of decision : 15.11.2022

Munish

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Partap Singh, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

Mr. Anil Kumar Sagar, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.199 dated 20.07.2022 registered under Sections 406, 420, 506 and 120-B of the Indian Penal Code, 1860 and Section 13 and 18 of the Punjab Travel Professional (Regulation) Act, 2014 at Police Station City Kharar, SAS Nagar.

The above-said FIR was registered on the complaint moved by complainant-Gurpreet Singh alleging that accused-Raj Kumar, Reena, Hukam Singh and Sudhir Kumar had cheated him for huge amount of Rs.42,00,000/- on the pretext of sending his relative Jaswinder Singh to USA.

Learned counsel for petitioner submit that the petitioner has been falsely implicated in the present case on the basis of disclosure

statements of other co-accused. The petitioner is not named in the FIR. The petitioner has nothing to do with the alleged offences. The complainant in connivance with the police has lodged the false and frivolous case against the petitioner. Co-accused Reena @ Reena Devi has already been granted concession of interim anticipatory bail by this Court vide order dated 22.08.2022. Nothing is to be recovered from the petitioner and his custodial interrogations is not required. The petitioner is ready and willing to join the investigation.

On the other hand learned State counsel and learned counsel for the complainant have opposed the present petition and submit that the petitioner along with other co-accused has taken Rs.42,00,000/- from the complainant for sending his relative to USA but neither the relative of the complainant was sent to USA nor the aforesaid amount was given back to the complainant. When the complainant requested the petitioner and other co-accused to return the aforesaid money, they refused to do so by threatening the complainant. The petitioner is a habitual offender. He is also involved in case FIR No.182 dated 05.03.2022 registered under Sections 406 and 420 of the IPC at Police Station Krishna Gate, Kurukshetra. Custodial interrogations of the petitioner is required for thorough investigation of the case and for recovery of amount of Rs.42,00,000/-.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. The recovery of hefty amount is yet to be effected. Moreover, his

antecedents are also not good as he is already involved in one other case of similar nature.

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. This view of mine finds support from the judgment of Hon'ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma**, (2014) 2 SCC 171.

Further, it is well settled that Article 21 of the Constitution is not an absolute right and is subject to the procedure established by law. The facts and circumstances involved in the present case, point towards the complicity of the petitioner and thus custodial interrogation of the petitioner is necessary and would not amount to the violation of petitioner's right under Article 21 of the Constitution.

Keeping in view the above facts as well as nature of the offence, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

15.11.2022

kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No