

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

Sr. No.203

CRM-M- 43178-2019

Date of decision : 14.2.2022

Kulwinder @ Kulwinder Masih

.....Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. APS Rehan, Advocate for the petitioner

Ms.Gunkirat Kaur, AAG, Punjab

DEEPAK SIBAL, J. (ORAL)

The matter has been taken up through video conferencing.

Through the present petition filed under Section 438 Cr.P.C. the petitioner seeks anticipatory bail in FIR No.103, dated 14.9.2019, registered under Sections 420, 120-B of IPC and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014, at Police Station Dhariwal, District Gurdaspur.

Briefly stated, the case of the prosecution is that the petitioner and his co-accused, lured the complainants to part with Rs.3,99,000/- on the pretext of getting them contracts under the Swachh Bharat Mission but after having received the aforesaid amount, the petitioner and his co-accused refused to honour their commitment as also return the money.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; the petitioner and his co-accused on one hand and the complainants on the other hand together agreed to

execute contracts under the Swachh Bharat Mission; it is the complainants, who have played fraud with the petitioner; on 30.3.2019, co-accused Kuldeep Raj, brother of the petitioner, had filed a civil suit through which he had *inter alia* stated that it is the complainant party, who had played fraud with him by projecting to him that in case Kuldeep Raj and the petitioner enter into a partnership with them, they would get them contracts under Swachh Bharat Mission; to save their skin and as a counter blast the complainants got lodged the FIR in question; the dispute is primarily civil in nature; the petitioner had been granted interim protection against his arrest, which concession he has not misused; he has no other criminal case pending against him and that the petitioner is also ready and willing to join and cooperate with the investigation.

Learned State counsel opposes grant of bail to the petitioner on the ground that he has played fraud with the complainants and that his custodial interrogation is required to decipher the truth.

Whether the FIR in question is a counter blast to the civil suit filed by co-accused Kuldeep Raj as also if it is Kuldeep Raj and the petitioner who are the actual victims would be deciphered during the course of the investigation and the trial, which may follow. However, the petitioner has no criminal antecedents and for the last 2½ years he has not misused the interim protection granted by this Court staying his arrest as also because the dispute primarily revolves around documents, virtually all of which have already been placed on the record of this Court, I am of the opinion that the petitioner's custodial interrogation is not necessary.

In the light of the above, subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.103, dated 14.9.2019, registered under Sections 420, 120-B of IPC and Section 13 of the Punjab Travel Professionals Regulation Act, 2014, at Police Station Dhariwal, District Gurdaspur, he shall be released on anticipatory bail to the satisfaction of the Arresting Officer.

The petition is allowed in the above terms.

14.2.2022
gsv

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No