

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

**CRM-M-43088-2019 (O&M)
Date of decision: 11.05.2022**

Vijender Kumar

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Harsh Chopra, Advocate for the petitioner.
Mr. J.S. Toor, Addl. PP, UT Chandigarh.
Mr. Keshav Pratap Singh, Advocate for the complainant.

HARNARESH SINGH GILL, J.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR No.229 dated 28.08.2019, registered under Sections 420 IPC, at Police Station Sector-31, Chandigarh.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case; that even as per the FIR, neither there was any allegation of entrustment of Rs 2.5 crore to the petitioner nor any proof qua the said amount/transaction had been placed on record by the complainant; that in fact, the complainant himself wanted to grab the petrol pump of the petitioner, which is why, he (complainant) had lodged the false FIR against the petitioner. He has further submitted that the complainant and the petitioner have been

known to each other since 2003 and that as per the allegations, an amount of Rs.10 lakh was given to the petitioner by the complainant in the year 2007, but the same is an oral assertion.

Learned counsel for the petitioner has further submitted that intention of the complainant would be clear from the fact that the amount of Rs. 2.5 crore had allegedly been paid to the petitioner at Panchkula and the complainant himself was residing at Panchkula, but the FIR was lodged at Police Station Sector-31, Chandigarh, which has no jurisdiction. He has also placed on record the photocopy of the affidavit sworn by Shamshad son of Babu Khan, qua the complainant, stating therein that no such person had ever resided at their house i.e. H. No. 220, Gali No. 4, Shanti Nagar, Manimajra, Chandigarh; that the alleged amount of Rs.2.5 crore was paid in the year 2007 and the complaint qua the same was moved in the year 2017 i.e. after a gap of 10 years; that civil litigation is pending between the parties. He has further submitted that no criminal case is made out against the petitioner and rather it is the complainant who wants to grab the petrol pump of the petitioner, allotted to him under S.C. quota and there is no evidence to prove that the petitioner had misappropriated any amount and that the wife of the petitioner has already been granted the concession of anticipatory bail because of an unexplained delay of 12 years in the registration of the FIR; that the petitioner also deserves the concession of anticipatory bail and that the challan has been presented.

Learned State counsel assisted by the learned counsel for the complainant, submits that the petitioner was arrested in another FIR No.

23/2022, wherein he was directed to join the investigation; that though he has joined the investigation, yet he is not cooperating with the investigating agency; that the petitioner has also issued six cheques of Rs. 50 lakh each, in favour of the complainant, which shows that the petitioner had received the money from the complainant and in discharge of his liability towards the complainant, he had issued the cheques, but out of the said cheques, two cheques were bounced due to insufficient funds. Besides, it is pointed out that the petitioner has also sworn an affidavit to transfer 15 flats located at Asha Apartments Panchkula Extension 2, in favour of the complainant, mentioning that nothing was due qua the said flats and the consideration amount of the flats would be deducted from the amount due towards him (complainant), but actually the said flats were not in the name of the petitioner. It is further submitted that the Pajero Sports Car of the complainant is also with the petitioner, which is neither being returned nor purchased by him (petitioner). They further pointed out that earlier also, the petitioner was released on interim bail to explore the possibility of a compromise between the parties, but as per the report dated 16.01.2020, the mediation remained unsuccessful. Thus, the petitioner in connivance with other co-accused has committed fraud upon the complainant and he is not entitled to the concession of anticipatory bail.

I have heard the learned counsel for the parties and also gone through the paper-book.

As per the prosecution, the petitioner in connivance with the other co-accused demanded friendly help of Rs. 10 lakh from the

complainant, which was given to the petitioner being an old friend. The petitioner had allured the complainant on the pretext of making him (complainant) a partner in his (petitioner) petrol pump situated at MDC Panchkula, and for the said purpose, the complainant paid Rs.2.5 crore to the petitioner by arranging the same from personal savings. But neither the petitioner had made the complainant a partner nor returned the amount to him. Ultimately, the complainant moved a complaint at public window on 08.03.2017. At one stage, the petitioner admitted that he had taken Rs.2.5 crore from the complainant and in addition to that, he had also taken Rs.27 lakh from the complainant to deposit the same in a chit fund committee through co-accused Irfan Khan. The petitioner also issued six cheques, amounting to Rs.50 lakh each, in favour of the complainant and had also sworn an affidavit to transfer 15 flats located at Asha Apartments Panchkula Extension 2, in the name of the complainant. Out of said six cheques, two cheques were bounced. The aforesaid 15 flats were also not in the name of the petitioner. Even, the petitioner is also not returning the Pajero Car to the complainant. It is also brought to the notice of this Court that during investigation, it also came on record that SBI Peermushalla Branch has also made a representation against the petitioner and other persons before the Senior Superintendent of Police, Mohali, alleging that they had fraudulently obtained a loan from the bank by tendering fake documents and the proceedings against the accused persons are being initiated.

The allegations against the petitioner are that he in connivance with other co-accused played a fraud upon the complainant as

well as the SBI Bank, are serious and grave in nature. The money trail and transactions also point out the complicity on their part. Therefore, the custodial interrogation of the petitioner is required and hence, he is not entitled to the concession of bail.

In view of the above, this Court does not find any merit in the present petition.

Dismissed.

(HARNARESH SINGH GILL)
JUDGE

11.05.2022
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No