

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-94-2022 (O&M)
Date of Decision:-19.5.2022

Karamjit Kaur and another ... Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Inderjit Sharma, Advocate for the petitioners.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Savinderpal Singh.

Ms. Sukhveer Kaur, Advocate for
Mr. Raj Kumar Arya, Advocate for the complainant.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.89 dated 4.12.2021, Police Station Bhaini Mian Khan, Tehsil and District Gurdaspur, under Sections 420 and 120-B of Indian Penal Code.
2. At the time of issuance of notice of motion, the following order was passed on 6.1.2022:

“The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.89

dated 4.12.2021, Police Station Bhaini Mian Khan, Tehsil and District Gurdaspur under Sections 420/120-B of Indian Penal Code.

The FIR was lodged at the instance of Sukhjinder Singh, wherein it is alleged that he had been serving as a Secretary in Cooperative Society in Village Chak Sharif, Tehsil and District Gurdaspur where petitioner No.2-Bhagat Singh had remained posted as a President. It is alleged that since petitioner No.2-Bhagat Singh and his wife had become defaulters of the society and would have lost their membership in case the amount had not been paid, therefore, the complainant, who was having good relations with petitioner No.2-Bhagat Singh, deposited an amount of Rs.2,89,300/- in the bank accounts of petitioner No.2-Bhagat Singh and his wife. The complainant alleged that, however, the said amount has not been repaid to him till date and rather the accused are hurling threats to him.

Learned counsel for the petitioners submits that it is a case where the amount in question was allegedly deposited in the year 2016, whereas the present FIR has been lodged after more than 5 years, which is nothing but an abuse of process of law. It has further been submitted that, in any case, even if all the allegations are taken to be correct, the same at best would be a dispute regarding monetary transaction regarding return of loan and that no offence can be said to be made out, the matter being a case of civil liability only.

Notice of motion for 19.5.2022.

At this stage, Mr. Raj Kumar Arya, Advocate has put in appearance on behalf of the complainant and has filed *Vakalatnama*, which is taken on record.

Learned counsel for the complainant has submitted that he has vouchers to show that he had deposited the amount in question and that it is a case of breach of trust.

However, upon a query put by this Court as to whether the amount in question was paid by cash or by cheque, no definite answer was

furnished regarding this query. Even, learned State counsel could not furnish any definite information.

Learned State counsel to furnish definite information as regards the aforesaid query on the next date of hearing.

Meanwhile, in the event of arrest, the petitioners be released on interim bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned State counsel, upon instructions from the Investigating Officer, has informed that pursuant to interim directions, the petitioners have since joined investigation and that the petitioners are not involved in any other case. Learned State counsel has, however, informed that no recovery whatsoever has been effected from the petitioners.
4. Learned counsel representing the complainant has also opposed the petition on the ground that no amount has been repaid till date.
5. I have considered rival submissions addressed before this Court.
6. On the last date of hearing, this Court had directed the State counsel to furnish information as to whether the amount in question i.e. Rs.2,89,300/-, which is stated to have been deposited by complainant in the loan account of petitioner No.2-Bhagat Singh, has been deposited by way of cash or cheque. Learned State counsel, upon instructions from the Investigating Officer, has informed that the said amount was paid in cash. In these circumstances, when the amount is stated to have been paid in cash, it will be debatable as to whether the same has indeed been paid by the complainant or not particularly

when the FIR in question came to be lodged after about 5 years of the said payment. The petitioners, in any case, are stated to have joined investigation. In these circumstances, custodial interrogation of the petitioners is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 6.1.2022 are hereby made absolute, subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

19.5.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No