

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

CRM-M-51567-2022

Date of Decision: 10.11.2022

Nishant Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Satnam Singh Thakur, Advocate for the petitioner.

Mr.G.S.Sandhu, DAG, Punjab.

ASHOK KUMAR VERMA, J.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in case FIR No.169 dated 08.09.2022 under Sections 408/506 of IPC registered at Police Station City, Phagwara, District Kapurthala.

The present FIR has been registered on the allegations that the petitioner was working in the complainant's finance company for the last 5-6 years. The said company has given money to different customers on finance and the petitioner used to collect installments from the said customers but he was not giving them any receipt. As such the petitioner is alleged to have cheated the company by collecting instalments amounting to about Rs.3,00000 from 20/25 different customers and had failed to deposit the same in the said company.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner has never worked with the aforesaid company. He was not even an employee of the said company. There was no direct or indirect evidence against the petitioner to connect the petitioner with the commission of the alleged crime. Learned counsel submits that nothing is to be recovered from the petitioner and as such his custodial interrogation is not necessary. He is already ready and willing to join the investigation.

Notice of motion.

On the asking of this Court, Mr. GS Sandhu, DAG, Punjab accepts notice on behalf of the respondent-State. He opposes the grant of anticipatory bail to the petitioner. He submits that the petitioner has cheated not only the finance company but public at large and hefty amount is yet to be recovered from the petitioner and as such his custodial interrogation is necessary.

Having heard learned counsel for the parties, I am of the view that there are specific allegations against the petitioner that he cheated not only the finance company but also public at large by collecting installments amounting to about Rs.3,00000/- from different customers and he failed to deposit the same in the company. The allegation against the petitioner is serious in nature. Moreover, the investigation is still going on, and therefore, his custodial interrogation is necessary for finding out the modus operandi of commission of the offence. 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.

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

10.11.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>