

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

CRM-M-54953-2022

Date of Decision: 29.11.2022

Hardeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.J.S.Bhinder, Advocate for the petitioner

Mr.J.P.Ratra, Sr.DAG, Punjab with

ASI Beant Singh

...

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail to him in case FIR No.51 dated 14.9.2022 under Section 407 of the IPC, registered at Police Station Dharmgarh, District Sangrur.

In brief, the story of the prosecution is that the complainant is an agriculturist and there is no other source of income except from agricultural produce. He had sold his agricultural produce on 26.10.2020 amount to Rs.1,48,776/- and on 29.10.2020 amounting to Rs.1,06,014/- through firm Gurbakhshish Trading Company, Anaj Mandi, Patran. The owner of the said firm had come to village and took the agricultural produce from him with the assurance that they would pay the above said amount. But no amount has been paid to him.

Learned counsel for the petitioner, *Inter alia*, contends that

the petitioner has already transferred Rs.2,67,588/- in the account of

Gurpreet Singh vide NEFT on 27.10.2020 which is reflected in statement (Annexure P-2). Learned counsel submits that nothing is to be recovered from the petitioner and as such no custodial interrogation is required.

On the contrary, learned counsel for the State on instructions from ASI Beant Singh submits that the petitioner has not made any payment to the complainant- Gagandeep Singh. Learned counsel also submits that the investigation is at initial stage and recovery is yet to be effected from the petitioner and as such his custodial interrogation is necessary.

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

From a perusal of the police record, it transpires that J Form No.1204 dated 26.10.2020 amount to Rs.1,48,776/- was in the name of complainant's nephew and J Form No.1176 dated 29.10.2020 amount to Rs.1,06,014/- was in the name of complainant's son in which payment has not been made by the petitioner and his firm. The contention of the learned counsel that as per entries in the bank account statement of the firm, the petitioner had already paid an amount of Rs.2,67,588 on 27.10.2020 and thereafter an amount of Rs.2.00 lacs on 12.11.2020. Both the said entries are made in the name of Gurpreet Singh but the said payment is not in commensurate with J Forms on police file. *Prima facie* it appears that the the petitioner and his firm have not made any payment to the complainant. Moreover, investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C.

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

29.11.2022
MFK

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