

CRM-M-59738 of 2022

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

CRM-M-59738 of 2022
Date of decision: 21.12.2022

Prabhjot Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. A.K. Sharma, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.
Mr. Aayush Gupta, Advocate, for the complainant.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.156 dated 05.12.2022 under Sections 420, 120-B IPC, registered at Police Station Laddowal, District Ludhiana.

Present FIR has been registered on the basis of application bearing UID No. 2256111 dated 17.02.20222 moved by Bhupinder Singh against Prabhjot Singh (petitioner), his wife and mother to the effect that complainant is doing business of electronic goods and petitioner was doing job since 2017 with him, who used to collect payment from different dealers and to deposit the same in account of firm in ICICI Bank. On 09.02.2022 accused came to his office/department store in house and he gave four cheques to him to deposit in the account of firm and complainant also gave Rs.8 lacs to him in presence of Jagdish Singh virk to deposit the same.

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Complainant received message regarding depositing of two cheques and when complainant inquired about remaining two cheques and Rs.8 lacs, the accused put off the matter that there was technical problem. On 10.02.2022 he received message regarding depositing of two cheques, but he did not receive message about depositing of cash amount. He inquired from the petitioner, who told that he deposited the same on 09.02.2022 and he will confirm from the bank. Complainant demanded copy of voucher regarding the same, but he put off the matter and switched off his phone. Complainant came to know that Rs.8 lacs were not deposited in his account. The complainant inquired the same through whatsapp message and petitioner admitted his guilt and told to return the same. Complainant came to know that petitioner used to collect payments from the dealers and customers, but he did not give the same to complainant. He took Rs.56,000/- from Manoj Kumar of M/S N.K. Electronics, Rs.1,56,000/- from Bhupinder Singh of M/s Bhhuta Electronics, Rs.22,000/- from M/s Jai Ambay Electronics. Complainant came to know that he duped him of Rs. 15 lacs. On 13.02.2022 and 14.02.2022 complainant went to house of the petitioner and told the same to his wife and mother. On 15.02.2022 he again went to the house of the petitioner and petitioner was present there. Petitioner, his mother and wife started threatening the complainant that they will do something to them and involve the complainant in false case.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. He submits that it is a case of breach of contract as the complainant stopped paying the full salary and emoluments to the petitioner and in February, 2022 petitioner was terminated

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from the service and an amount of Rs.10,00,000/- was shown as due from him on the pretext that petitioner has misappropriated the amount while working as marketing and sales executive. He further submits that petitioner is ready and willing to join the investigation.

Per contra, learned State counsel, assisted by learned counsel for the complainant, opposes the prayer of the petitioner for grant of anticipatory bail. He submits that earlier the FIR was under Section 420 and 120-B IPC, however, later on offence under Section 408 IPC has been added. He submits that petitioner has misappropriated a huge amount, which is yet to be recovered, therefore, his custodial interrogation is required.

I have heard learned counsel for the parties and perused the record.

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

Moreover, in ***P. Chidambaram vs. Directorate of Enforcement (SC) 2019 (4) RCR (Criminal) 875*** Hon'ble Supreme Court has observed as follows:

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purpose. Power under Section 438 Cr.P.C 1973

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is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

There are specific allegations against the petitioner that he while working as marketing and sales executive with the complainant misappropriated Rs.15,17,396/-, which is yet to be recovered. Perusal of FIR further shows that in lieu of the misappropriated amount petitioner entered into an agreement with the complainant to transfer his residential house worth Rs.20 lacs, in the name of the complainant and the complainant agreed to pay balance amount of Rs.4,83,000/- to the petitioner. However, on the date of registration of the agreement dated 22.06.2022, petitioner did not appear before the Sub-Registrar to perform his part of the agreement. Two civil suits filed against each other are pending before the Court below. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

In view of the facts and circumstances of the case, I am of the

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considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and his custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse his liberty and does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

21.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No