

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

CRM-M-52404-2019 (O&M)

Date of Decision:-3.2.2022

Sikander Singh Kotach

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Jasraj Singh, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab,
assisted by ASI Satnam Singh.

None for the complainant/respondent No.2.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.327 dated 16.11.2019 at Police Station Model Town, Hoshiarpur, District Hoshiarpur under Sections 420 and 406 of Indian Penal Code, wherein the allegations are broadly to the effect that the petitioner had duped the complainant of an amount of Rs.13.40 lakhs on the pretext of sending him to USA.
2. At the time of issuance of notice of motion on 17.12.2019, the following order was passed:

“The petitioner seeks anticipatory bail in FIR No.327, dated 16.11.2019 registered at Police Station Model Town, Hoshiarpur, District Hoshiarpur under Sections 420 & 406 IPC.

According to the FIR, the petitioner took money from the complainants for getting them a visa for USA but neither the visa was provided nor the money was returned.

Learned counsel for the petitioner submits that the petitioner is willing to deposit a sum of Rs.8 lacs with the Registrar (Judicial) of this Court to show his bona fide. The said amount be kept in a Fixed Deposit till the presentation of the challan and on presentation of the challan, the same be disbursed to the party in whose favour the challan is presented.

Notice of motion for 14.02.2020.

In the meantime, the petitioner is directed to join investigation with the Investigating Officer on 23.12.2019 at 10.00 a.m. and cooperate therewith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/SHO concerned subject to his compliance of the conditions enshrined under Section 438(2) Cr.P.C. and subject to proof of deposit of Rs.8 lacs.

On the date, the petitioner joins investigation, he will produce the proof of payment of Rs.8 lacs to the Registrar (Judicial) of this Court. On deposit of the said amount, the Registrar (Judicial) is directed to put the amount in a Fixed Deposit carrying maximum rate of interest.”

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that he has already deposited two bank drafts i.e. for an amount of Rs.5 lakhs and Rs.3 lakhs favouring Registrar (Judicial) of this High Court.
4. Learned State counsel, upon instructions from the Investigating Officer, has informed that pursuant to interim directions, the petitioner has since joined investigation.

5. Having regard to the aforesaid facts and circumstances and particularly the fact that the petitioner is stated to have joined investigation and is not required for any custodial interrogation, the petition is accepted and the interim directions issued by this Court vide order dated 17.12.2019 are hereby made absolute, subject to the condition that the petitioner 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.
6. However, the order dated 17.12.2019 as regards the disbursement of the amount pertaining to FDR to the person in whose favour the challan is filed, is hereby modified and it is clarified that the amount in question shall be returned to the petitioner only in case he is found innocent and such findings attain finality. However, in case the petitioner is found to be guilty and such findings attain finality, the amount in question shall be released in favour of the complainant. The Trial Court concerned shall issue necessary directions to the bank concerned not to entertain any such request for encashment as against the aforesaid directions.
7. As far as the application i.e. CRM-29398 of 2021 is concerned, without expressing anything on merits the same is disposed off at this stage with liberty to the applicant/petitioner to have recourse to appropriate remedies as may be available to him.

3.2.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No