

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-73 of 2023

Date of Decision:05.01.2023

Kamal

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Robin Lohan, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Aman Pal, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 of Cr.P.C, petitioner seeks pre-arrest bail in case FIR No.559 dated 16.11.2022 registered under Sections 323, 379-A, 506 IPC read with Section 34 IPC at Police Station Pundri, District Kaithal.

FIR was lodged on the complaint of Sushil Kumar, as per which he was a contractor. Gulab Sisla, co-accused was a customer on his shop in Anaj Mandi, Pundri who owed an amount of ₹10 lacs to him (complainant). On 14.11.2022, complainant received a call from his brother Purushottam who required ₹5 lacs immediately but did not have a cheque book to withdraw the money. At that time, Gulab Sisla was present with his brother and told him that he had the passbook and so he(purushottam) could get the money trasnferred in his account and he will withdraw it immediately for giving it to him. Believing him, complainant's brother Purushottam asked the complainant to transfer ₹5 lacs through RTGS. Complainant transferred the amount of ₹5 lacs in the SBI account of Gulab. Gulab and Purushottam

then went to Pai to get the money withdrawn. Kamal son of Gulab (petitioner) met them on the way, who was handed over the cheque of ₹5 lacs to withdraw the amount for giving to Purushottam. After some time, Kamal gave ₹5 lacs and at that time, Gulab was with Purushottam. Though at that time, Kamal left but as brother of the complainant Purushottam started counting the money, Kamal along with 2-3 boys came there, snatched the money and ran away. On getting a call from his brother, complainant told Gulab that he had got this robbery done in connivance with his son and his accomplices. Gulab enacted drama to call his nephew but after some time, fled away on the motor-cycle hurling threats to the complainant to kill him.

It is submitted by the petitioner that in fact all the allegations of the FIR are wrong. It is the complainant Sushil, who had to pay ₹10 lacs to the accused and so, he had deposited ₹3 lacs in the account of the petitioner on 21.10.2022 through two bank transactions and ₹5 lacs were deposited in the account of co-accused Gulab. Some dispute later on took place and taking advantage of his influential position, the complainant got the FIR lodged. It is further submitted that he did not withdraw any amount from the Bank and rather one Vikas had withdrawn the amount. It is also submitted that co-accused Gulab has been granted interim bail by this Court vide order dated 13.12.2022 passed in CRM-M-57960 of 2022 and that allegations against the petitioner are on the same footing. It is further contended that the petitioner is 18 years old and has passed 10+2 and is ready to join the investigation and so, in all these circumstances, he be allowed anticipatory bail.

Strongly opposing the bail petition, it is submitted by counsel for the complainant assisting learned State Counsel that the petitioner is principal

accused, who snatched the money from the hands of the complainant's brother Purushottam. Counsel for the complainant also placed on record copy of the mobile script of the conversation which took place between co-accused Gulab and Sushil to support the contention that allegations of the FIR are true.

Having considered the submissions of both the sides, I am of the view that the petitioner does not deserve to be given the benefit of pre-arrest bail.

No doubt that co-accused Gulab has been given interim protection vide order dated 13.12.2022 in CRM-M-57960 of 2022 but case of the petitioner is on different footing because it is the petitioner who is attributed to have snatched the money from the hands of Purushottam. Even if it be assumed that complainant owed money to Gulab as is contended by him, the petitioner had nothing to do with the same.

Having regard to the aforesaid facts and circumstances of the case, but without commenting anything on the merits of the case, the present bail petition is rejected.

January 05, 2023
renu

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No