

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRM-M-4476 of 2021 (O&M)

Date of Decision:01.08.2023

Kulwinder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R. Kartikeya, Advocate,
for the petitioner.

Mr. Manjot Singh Tiwana, AAG, Punjab

Mr. Jaspreet Singh, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.173 dated 05.12.2020, under Sections 420, 465, 467, 468, 471 IPC (Section 120-B IPC added later on), registered at Police Station Khuhian Sarwar

2. It has been submitted by learned counsel for the petitioner that in the present case the dispute is between the close relatives and the allegations are that the petitioner has usurped the property of the complainant and the subject matter involved in the present case is for Rs.3,50,000/-. He submitted that the dispute is with regard to the family property and even this Court had also sent the parties to the Mediation and Conciliation Centre of this Court but unfortunately the

mediation has failed. He submitted that the offences involved in the present case are under Sections 420, 465, 467, 468, 471 and 120-B IPC and the petitioner has already joined investigation in pursuance of the interim order passed by this Court on 19.04.2021 by which the arrest of the petitioner was stayed. He submitted that the petitioner will continue to join investigation as and when called by the police officer and will cooperate with the investigation process.

3. On the other hand, Mr. Manjot Singh Tiwana, learned AAG, Punjab has stated that so far as the joining of the petitioner in investigation process is concerned, the same is correct. He has however submitted that one cheque book belonging to the complainant has not been returned by the petitioner and one of the allegations was that he has forged the signatures of the complainant on a number of cheques.

4. Mr. Jaspreet Singh, learned counsel appearing on behalf of the complainant has also opposed the grant of anticipatory bail to the petitioner on the ground that although the offences are under Sections 420, 465, 467, 468, 471 and 120-B IPC but the petitioner has committed a fraud upon the complainant and the complainant being a lady has been unnecessarily harassed at the hands of the petitioner and therefore he does not deserve the concession of anticipatory bail.

5. I have heard learned counsel for the parties.

6. The present is a petition which was filed in the year of 2021. Vide order dated 19.04.2021 this Court had stayed the arrest of the petitioner and the order was directed to continue thereafter. Learned State counsel has categorically stated, on instructions from ASI Lekh Raj, that the petitioner has already joined investigation. However, an objection was raised that the petitioner has not got

recovered the cheque book belonging to the complainant and one objection raised by learned counsel for the complainant that the complainant being a lady has been deprived of her property rights by way of fraudulent method by the petitioner and therefore he does not deserve the concession of anticipatory bail. Learned counsel for the petitioner during the course of arguments has categorically stated that the petitioner is not having any cheque book belonging to the complainant and otherwise also it can be ascertained at the time of trial by adducing evidence. The petitioner has already joined the investigation and the offences are pertaining to Sections 420, 465, 467, 468, 471 and 120-B IPC. The order of grant of interim protection was passed on 19.04.2021 which is more than two years ago and therefore the objection taken by learned State counsel and learned counsel for the complainant, would not sustain. Consequently, the present petition is allowed. It is directed that the petitioner shall continue to join the investigation as and when called for by the Arresting/Investigating Officer and he shall also abide by the conditions as specified under Section 438(2) of the Code of Criminal Procedure.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

August 01, 2023

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Whether speaking : Yes/No

Whether reportable : Yes/No