

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

CRM-M-6890-2023

Date of Decision: 9.2.2023

Naseeb Singh

... Petitioner

Versus

State of Haryana

... Respondent

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

Present: Mr.Manoj Pundir, Advocate for the petitioner

Mr.Munish Sharma, AAG, Haryana

Mr.Sudhir Rana, Advocate for complainant

...

Notice of motion.

On the asking of this Court, Mr.Munish Sharma, AAG,
Haryana accepts notice.

At this stage, Mr.Sudhir Rana, Advocate appears and files
Vakalatnama on behalf of the complainant which is taken on record.
Office to tag the same at the appropriate place of the paper-book.

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 FIR No.1119 dated 30.12.2022 under Sections 406, 420 of the IPC
registered at Police Station Sadar Assandh, District Karnal.

The case of the prosecution in brief is that previously, the
complainant sent his brother abroad with the help of Naseeb Singh
(petitioner herein). In the month of January, 2022, the petitioner came to
the house of the complainant and when complainant talked him about
going abroad, the petitioner told him that he would facilitate the
complainant going abroad. Upon this complainant deposited Rs.2,92,000/-

in the account of petitioner or in the account of others on the asking of the

petitioner on different dates. Cheque of Rs.14,50,000/- of mother of complainant was also given for the said purpose. When the complainant got information about the rejecting of his application for visa, he talked to the petitioner, but the petitioner started to make excuse on one pretext or the other. On 23.8.2022, the complainant requested to return the amount, but of no avail. The petitioner has cheated the complainant by taking an amount of Rs.2,92,000/- and cheque for Rs.14.5 lakhs. In the complaint, it is alleged that on the belief of the complainant's father, many other people gave money to the petitioner for sending them abroad, whose amount runs into several lakhs. The petitioner did not get their work done and in this way he has also cheated by taking lakhs of rupees from them. On the said complaint, case under Sections 406 and 420 of the IPC was registered. During investigation, statements of accounts of complainant and the petitioner were obtained in which amount of Rs.2,92,000/- was found deposited.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner and the complainant were known to each other for many years and having financial transactions between themselves. The petitioner sold his land and part of the proceed on sale of land was given to the complainant, who returned some amount and also gave cheque of remaining amount and upon presentation of the said cheque, the same was dishonoured and with regard to the same, one complaint under Section 138 of the Negotiable Instruments Act was filed in the court at Kaithal in which mother of the complainant was summoned as a witness and as a counter blast to the said complaint, the present case has been registered against the petitioner. Learned counsel submits that no amount is to be recovered from the petitioner. The petitioner is already ready and willing

to join the investigation.

On the contrary, learned counsel for the State with the assistance of learned counsel for the complainant opposed the grant of anticipatory bail to the petitioner. Learned counsel submits that recovery of hefty amount from the petitioner is yet to be made and as such his custodial interrogation is necessary.

Having heard learned counsel for the parties, I am of the view that the petitioner has been specifically named in the FIR. There is specific role attributed to him. Investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence and for recovery of the amount. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in 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

9.2.2023
MFK

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