

CRM-M-13800 of 2023

2023:PHHC:041289

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

CRM-M-13800 of 2023

Date of decision: 20.03.2023

Mukul Sharma

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Arvind Kashyap, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0220 dated 26.12.2022 under Sections 420, 406, 120-B IPC; Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 and Section 24 of the Immigration Act, 1983, registered at Police Station Division No.2, Pathankot, Punjab.

Brief facts of the case are that FIR in the present case was registered on the basis of written complaint moved by Subash Gupta son of Naresh Chander and others to SSP Pathankot with the allegations that Varun Arora son of late Radhe Sham Arora is resident of Patel Nagar, Street no.1, Near Kothi of Ex-MLA Amit Vijay. Petitioner-Mukul Sharma, his brother Sham Sharma and their father Varinder Sharma are resident of Patel Nagar, Street No.2, near office of Punjab Kesari, Pathankot. Petitioner-Mukul received an amount of Rs.45,50,000/- from him to invest the same in his business and also

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told him to return the said amount after selling their property, but he did not pay any amount. Now his phone is also switched off and is not found in his house and he think that he has escaped. His family told that he did not tell them about his whereabouts. The petitioner in connivance with his friend Nishant resident of Sujanpur have brought the money from them for the business of Crusher. His brother and his father are also involved in this fraud. The petitioner defrauded the complainant as well as some other persons the detail of which is as under:-

1. Subash Gupta son of Naresh Chander Mahajan, resident of Prem Nagar, Saingarh, Pathankot to the tune of Rs.21,50,000/-.
2. Amit Mahajan son of Raman Mahajan resident of Sector-8, House no.1850, Rose Avenue, Siali Road, Pathankot to the tune of Rs.26,50,000/-.
3. Ankit Mahajan son of Raman Mahajan, resident of Rose Avenue, Sector 8, Siali Road, Pathankot to the tune of Rs.25,80,000/-.
4. Pankaj son of Sat Pal, resident of Khanpur to the tune of Rs.1,75,000/-.
5. Akoor Mahajan son of Shakti Mahajan, Rampura Mohalla Pathankot to the tune of Rs.5,75,000/-.
6. Ankur Bhagat son of Charan, Krishna Nagar, Pathankot to the tune of Rs.14,76,000/-.
7. Bhanu Arora son of Gurcharan Arora, resident of Lamini, Pathankot for Rs.16,50,000/-.
8. Vikas Arora son of Gurchara Arora, resident of Lamini, Pathankot for Rs.20.50,000/-.
9. Raman Mahajan son of Sardari Lal, resident of Siali Road, Pathankot for Rs.24,75,000/-.
10. Veenu Mahajan wife of Raman Mahajan, resident of Siali Road, Pathankot to the tune of Rs.31,50,000/-.

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11. Vishal Kumar son of Bishan Dass, resident of Patel Chowk, Pathankot for Rs.27,50,000/-.

12. Manu choudhary son of Prem Choudhary, resident of Krishna Nagar, Pathankot to the tune of Rs.3,15,000/-.

13. Sojal Mahajan wife of Amit Mahajan, resident of Siali Road, Pathankot for Rs.30,50,000/-.

Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case as he has not committed any offence as alleged in the FIR. He further submits that nothing is to be recovered from the petitioner, therefore, custodial interrogation of the petitioner is not required. He further submits that petitioner is ready and willing to join the investigation.

Per contra, learned State counsel, who appears on receipt of advance notice of the petitioner, has opposed the prayer for grant of anticipatory bail to the petitioner by submitting that in view of seriousness of allegations against the petitioner, 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.

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There are specific allegations against the petitioner that he in criminal conspiracy with co-accused cheated number of persons and collected huge amount from them on the false promise of heavy profit and sending them abroad. Petitioner has duped the complainant and several other persons of crores of rupees. Therefore, to unearth the deep rooted conspiracy, custodial interrogation of the petitioner is required.

Reliance can be placed upon the Hon'ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (CrL) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon'ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

In view of seriousness of allegations against the petitioner, he does not deserve the concession of anticipatory bail. Hence, the present petition is dismissed.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

20.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No