

CRM-M-12943 of 2023 (O&M)

2023:PHHC:052600

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

CRM-M-12943 of 2023 (O&M)
Date of decision: -17.04.2023

Mohan Lal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. K.S. Brar, Advocate,
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

Mr. Gaurav Singla, Advocate,
for Mr. Sanjiv Gupta, Advocate,
for respondent No.2.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.29 dated 24.02.2023 under Sections 406, 420 IPC, registered at Police Station Kotwali Nabha, District Patiala.
2. Present FIR has been registered against the petitioner on the statement of Kewal Singh son of Harmel Singh to the effect that in order to send his son abroad, he had borrowed a sum of Rs.6,50,000/- as loan on interest basis from the petitioner by mortgaging total 23 Tola gold jewelery as security with him. Complainant repaid the said amount

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along with interest i.e. Rs.7,30,000/- on 30.09.2021 by depositing the said amount in the bank account of the petitioner through RTGS, which is duly reflected in the account statement of the complainant. But petitioner-Mohan Lal did not return 23 Tola gold jewelry to complainant-Kewal Singh despite repeated requests made by him. The matter was probed by the Senior Superintendent of Police, Patiala and consequently, on his directions, present FIR under Section 406, 420 IPC was registered against the petitioner.

3. Learned counsel for the petitioner has submitted that petitioner is innocent and has been falsely implicated in the present case. He further submitted that present FIR is a counter-blast to FIR No.230 dated 02.10.2021 under Sections 365, 379-B, 323, 120-B IPC, got registered by the petitioner at Police Station Kotwali, District Patiala, to put pressure upon the petitioner to compromise in the said FIR. There is a delay of two years in registration of the FIR. He further submitted that petitioner is ready and willing to join the investigation.

4. Per contra, learned State counsel, assisted by learned counsel for respondent No.2-complainant, has submitted that petitioner is not entitled for grant of anticipatory bail as he has failed to comply with order dated 15.03.2023 and keeping in view the seriousness of allegations.

5. I have heard learned counsel for the parties and perused the record.

On 15.03.2023 following order was passed by this Court:

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“On the oral request of learned counsel for the petitioner, complainant-Kewal Singh son of Harmel Singh, resident of Madour, Sadar Nabha, Patiala, Punjab, is impleaded as respondent No.2 in the petition. Registry is directed to make necessary correction in the memo of parties.

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.29 dated 24.02.2023 under Section 406, 420 IPC, registered at Police Station Kotwali, Nabha, District Patiala.

Learned counsel for the petitioner, on instructions from the petitioner, submits that petitioner is ready to settle the dispute, therefore, the matter may be sent to the Mediation and Conciliation Centre of this Court and he will return 23 tolas of gold, which is the subject-matter of the present FIR, to the complainant before the Mediation and Conciliation Centre on the date to be fixed.

Notice of motion.

Mr. Adhiraj Singh, AAG, Punjab, accepts notice on behalf of the respondent-State. Mr. Sanjiv Gupta, Advocate, appears and has filed his vakalatnama on behalf of the complainant. He submits that he has no objection if the matter is referred to Mediation and Conciliation Centre of this Court for settlement.

In view of the above, parties are directed to appear before the Mediation and Conciliation Centre of this Court on 17.03.2023, on which date the petitioner shall return 23 tolas of gold to the complainant.

Adjourned to 17.4.2023.

In the meanwhile, arrest of the petitioner shall remain stayed.

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7. Report from the Mediation and Conciliation Centre has been received. On 17.03.2023, 28.03.2023, 10.04.2023 and 11.04.2023 following orders have been passed by the Mediator: -

“Present: Both the Parties.

In terms of order dated 15.03.2023 the petitioner has not brought 23 tollas of gold to be handed over to the complainant, however, he has assured that he will bring it on the next date. Joint and separate session held with both the parties. For further mediation to come up on 23.03.2023.

17.03.2023

(Shiv Charan Bhola)
Mediator

Present: Both the parties.

In terms of order dated 15.03.2023 the petitioner has not brought 23 tollas of gold to be handed over to the complainant, however, today also he has assured that he will bring it on the next date. Joint and separate session held with both the parties. For further mediation to come up on 10.04.2023.

28.03.2023

(Shiv Charan Bhola)
Mediator

Present: Both the parties.

In terms of order dated 15.03.2023 the petitioner has not brought 23 tollas of gold to be handed over to the complainant, today also he has assured that he will bring it on the next date. Joint and separate session held with both the parties. For further mediation to come up on 11.04.2023.

10.04.2023

(Shiv Charan Bhola)
Mediator

Present: Both the parties.

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In terms of order dated 15.03.2023 the petitioner has not brought 23 tollas of gold to be handed over to the complainant.

Repeated non-compliance of the abovesaid order. The aforesaid case is fixed for 17.04.2023 before the Hon'ble Court. Hence, the case file is being sent back to the Hon'ble Court.

11.04.2023

(Shiv Charan Bhola)
Mediator”

8. Learned counsel for the petitioner has not been able to satisfy this Court with regard to non-compliance of order dated 15.03.2023. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner. Consequently, the order dated 15.03.2023 vide which arrest of the petitioner was stayed is withdrawn.

9. In view of the above, present petition is dismissed with costs of Rs.25,000/- to be deposited by the petitioner with the Punjab and Haryana High Court Lawyers' Welfare Fund within one month from today.

10. In view of dismissal of the petition, application, if any pending, also stands disposed of.

17.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No