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2023:PHHC:056039

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19668-2023
DECIDED ON: 21.04.2023

JAGDISH SINGH @ JAGDISH SINGH MANN
.....PETITIONER

VERSUS

STATE OF PUNJAB
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. K.S. Dhillon, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.45, dated 09.03.2023, under Sections 420 and 406 of IPC, 1860, registered at Police Station Phillaur, District Jalandhar, Rural.

2. Learned counsel for the petitioner contends that the petitioner himself is a victim, as the whole version narrated in the FIR reflects that it is not the petitioner-Jagdish Singh or his son Karanjit Singh in whose account, the amount has been deposited, but it was deposited in the account of one Jasvir Singh, who is admittedly an agent. It is further the contention of the petitioner that he himself has also deposited some of the amount in the account of Jasvir Singh and is a victim alongwith the complainant, but the FIR has been lodged under the wrong surmises on behalf of the complainant.

3. Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab, accepts

notice on behalf of respondent-State.

5. Heard.

6. Before culminating the view, It would be appetite to examine the definition of Section 420 IPC, which reads as under:-

“420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

7. The ingredients of an offence of cheating have been crystallized by the Apex Court in **‘SW PalaNitkar versus State of Bihar-2002 SCC(Cri.) 129’** as:-

“(i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii) (a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) in cases covered by (ii) (b), the act of omission should be one which causes or is likely to cause damage or harm .to the person induced in body, mind, reputation or property.”

8. In fact the definition of cheating has been derived in Section 420 IPC from Section 415 IPC and therefore, both the sections are to be read inconsonance with each other and therefore, it mandates this Court to have a

glance on this provision as well, which reads as under:-

“415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

9. This court is of the considered view that there are specific allegations qua the petitioner, which reflect that he is directly a beneficiary and it was on his request, when he accompanied his wife and son to Amandeep Singh seeking financial help from the complainant. It is out of total consideration, an amount of Rs.15 lacs, was deposited by complainant in the account of was his agent-Jasvir Singh to facilitate his son's travelling to abroad on work permit.

10. Perusal of the FIR also reflect that each and every account detail, as and when the transaction has taken place with the dates and number of the bank accounts held by Jasvir Singh, who is admittedly an agent and the complainant was duped on the request of the petitioner for his son as well as his daughter-in-law to travel to Canada.

11. There are sufficient assertions made in the instant FIR that in fact, it is the petitioner, who is a direct beneficiary and it was on his behest that complainant Amandeep Singh and his father Kuldeep Singh have deposited amount on various dates to help the petitioner's cause and against that

eventually, he has availed the benefits. Now, as a clever device, the instant petition has been filed on the surmise that he is not a beneficiary rather a victim, who himself has deposited an amount in the account of Jasvir Singh-agent, but this contention is also not believable in the light of the totality of the facts and circumstances, wherefrom it can be easily inferred that the petitioner deposit part payment on account of instructions as demanded by the travel agent namely Jasvir Singh , apart from the amount, which the complainant Amandeep Singh and his father Kuldeep Singh has deposited in his account.

12. Since there is sufficient material to draw inference that the petitioner has usurp money and has derived undue advantage causing wrongful loss to the complainant namely Amandeep Singh, the petition being devoid of merits stands dismissed, as the ingredients of Sections 420 and 415 are apparently on the fact of it made out.

(SANDEEP MOUDGIL)
JUDGE

21.04.2023

Meenu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No