

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

104

CRM-M-20035-2023

Date of decision : 24.04.2023

Shivaji Singh and another

Petitioners

V/S

State of U.T. Chandigarh

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Ms. Satpreet Grewal Kapila, Advocate for the petitioners.

ASHOK KUMAR VERMA, J. (ORAL)

1. The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.226 dated 29.12.2022 registered under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 at Police Station Sector 39, Chandigarh.

2. The above-said FIR was registered on the basis of complaint made by complainant-Shubham Dhiman alleging that one Abhinandan came in contact with him who was staying with his cousin Rohit Kumar Singh (son of the petitioners) in the same Housing Society of the complainant. In due course, the complainant also came in contact with Rohit Kumar Singh and ultimately he invested huge amount i.e. Rs.90,00,000/- with the company of Rohit Kumar Singh. To gain the confidence of complainant, Rohit Kumar Singh sent copies of cheques of that amount to complainant assuring that this amount will be transferred to the account of his mother Anjali Bala but Rohit Kumar

Singh failed to do so and he did not return back the money to the complainant. Rohit Kumar Singh also presented before the complainant that he was in the process of getting investment of Rupees Five Thousand Crores from Sheikhs of Dubai but after sometime he informed the complainant that the investment was delayed as the money was coming from Terrorists based countries.

3. Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case. The dispute is of civil nature which has been given a criminal colour. Actually, the complainant was employee of Rohit Kumar Singh, son of the petitioners, from 11.03.2020 onwards and his services were terminated in July, 2022. Many person had invested with the company of Rohit Kumar Singh which investments were routed through the complainant. The present FIR is nothing but just a counter-blast of the termination letter which was issued by Rohit Kumar Singh as the work and conduct of the complainant was not satisfactory. The petitioners have nothing to do with the company of their son. Nothing is to be recovered from the petitioners and their custodial interrogation is not required in the case. The petitioners are also ready and willing to join investigation. Therefore, the petitioners may be granted anticipatory bail.

4. Notice of motion.

5. On the asking of the Court, Mr. A.M. Punchhi, Addl. Public Prosecutor for U.T. Chandigarh, who is present in the Court, accepts notice on behalf of the respondent-U.T. Chandigarh. Learned

Addl. Public Prosecutor has vehemently opposed the present petition and submits that the petitioners are the Directors of the said company M/s Earnedly Financial Services Ltd. from 20.05.2022 onwards and as per Computer record of ROC their Directorship is still continuing. Not only the complainant but 127 others persons stood cheated by the petitioners and their son co-accused Rohit Kumar Singh. Another complaint dated 24.12.2022 has also been filed against the petitioners and others by one Shruti Kumar with the allegations of cheating of Rs.15,10,000/-. For thorough investigation of the case and for recovery of cheated amount, the custodial interrogation of the petitioners is required in the case.

6. Having heard learned counsel for the parties, I am of the view that the allegations against the petitioners are serious in nature. As per the prosecution, the petitioners and his son co-accused Rohit Kumar Singh grabbed huge amounts of innocent people on allurements of healthy returns. There are plenty of other complainants who have been cheated in similar manner.

7. Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of cheated amount, custodial interrogation of the petitioners is necessary. 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. The Hon'ble Supreme Court in ***State Vs.***

Anil Sharma : (1997) 7 SCC 187 held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

8. Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioners do not deserves the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

24.04.2023

kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No