

101 **IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM M-28594-2021 (O&M)
Date of Decision: 11.09.2023**

Parmod

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Anshuman Dalal, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG Haryana.

Mr. Gurcharan Dass, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No.371 dated 14.06.2021, under Sections 380 & 407 of Indian Penal Code registered at Police Station City Rohtak, District Rohtak.

2. Petitioner is alleged to have taken out an amount of Rs.63 lakh from the safe maintained at the house of the complainant. Petitioner is the son of complainant’s sister and one of the two keys of safe was allegedly with the petitioner.

3. The Coordinate Bench vide order dated 23.07.2021, granted interim bail to petitioner and the same reads as under:-

“Learned counsel for the petitioner contends that as per the FIR Daya Kishan, maternal grandfather (Nana) of the petitioner, had sold a plot measuring 6604 Sq.Yds. two years back i.e. in the year 2019 for an amount of Rs2.60 crores and that since they intended to buy land, therefore, they had kept the entire money in a safe at their home. Out of the said amount an amount of Rs.1 crore

had been spent on construction of a house etc. while the remaining was still in the safe. It is alleged in the FIR that while one of the keys of the safe was with complainant's mother Murti Devi i.e. wife of Daya Kishan, the other key was with the complainant's nephew (Bhanja) Parmod. The complainant alleged that his nephew had taken an amount of Rs.63 lakhs from the safe from their house in February 2021 and that it was only in the month of May 2021 that they came to know about the said deficit. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that it remains unexplained as to why a key was entrusted to the petitioner, who is related to the complainant being son of complainant's sister i.e. his 'Bhanja'.

Learned counsel further submits that the FIR infact came to be lodged when the petitioner's mother claimed their share in estate of the family, which was objected to by the complainant as he did not wish to part with any property. Learned counsel has further submitted that it is highly unlikely that someone would store such a huge amount for a good two years for the purpose of purchasing land and that all these facts simply show that the petitioner has been falsely implicated.

Notice of motion for 8.10.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

At this Stage, Mr. Gurcharan Dass, Advocate has put in appearance on behalf of the complainant and accepts notice on behalf of the complainant. He has submitted that infact the incident has been recorded in CCTV camera.

The Investigating Officer shall take into possession the aforesaid CCTV footage and examine it and submit his report in respect of the same on the next date of hearing.

The complainant would be at liberty to furnish any other document to the Investigating Officer, which is relevant to the incident in question.”

4. Learned counsel, on instructions from petitioner, submits that in pursuance of the aforesaid order, he joined investigation and his custodial interrogation is not required by the Police.

5. Learned State counsel while opposing the bail application submits that custodial interrogation of the petitioner is required.

6. Learned counsel for complainant prayed for dismissal of the petition on the ground that amount in question is yet to be recovered.

7. Heard both sides and perused the paper-book.

8. As per prosecution case, Late Sh. Daya Kishan, maternal grandfather (Nana) of petitioner and father of the complainant sold a plot in the year 2019 for a consideration of Rs.2.60 crore and the entire money was kept in the safe at their home. Out of aforesaid amount, Rs.1 crore had been spent on construction of house etc. while remaining was still in the safe. It is alleged that in February, 2021, petitioner had taken out an amount of Rs.63 lakh from the safe while using the key and this fact came to the knowledge of complainant in May, 2021 and thereafter, on 14.06.2021 present FIR was registered. It is not the allegation of the prosecution or the complainant that petitioner has broken the safe or tampered with it in any manner; nor learned State counsel or learned counsel for complainant was able to persuade this Court as to whether amount of Rs.1 crore in cash can be stacked at home in such a manner for two years.

9. Be that as it may, all these allegations would be matter of trial to be proved beyond reasonable doubt by the prosecution. Since petitioner has already joined investigation and as such, in view of the discussion made herein-above, there is no justification for custodial interrogation of the petitioner.

Consequently, order dated 23.07.2021 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

10. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

11. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

12. Disposed off accordingly.

13. Pending criminal misc. application(s), if any, shall also stand disposed off.

11.09.2023

(MAHABIR SINGH SINDHU)
JUDGE

SN

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No