

CRM-M-26866 of 2023

2023:PHHC:077246

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

CRM-M-26866 of 2023

Date of decision: 26.05.2023

Avtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. G.S. Sadhu, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

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.0030 dated 22.03.2023 under Sections 406 and 420 IPC, registered at Police Station Sadar Rupnagar, District Rupnagar.

2. Present FIR has been registered on the complainant of Balwinder Singh stating that petitioner-Avtar Singh had cheated him for Rs.18,71,000/-. Petitioner-Avtar Singh was running an audio company under the name and style of Preet Audio Video Company. He allured the complainant for investing the money for earning interest on the amount of investment. Complainant handed over Rs.8 lacs in cash to the petitioner, who issued cheque of Rs.10 lacs to him. On the expiry of date of encashment of the cheque, he took the cheque of Rs.10 lacs and issued a fresh cheque of Rs.12,50,000/-. Thereafter, again on expiry of date of aforesaid cheque, two cheques for Rs.6,25,000/- each

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were issued in the name of complainant-Balwinder Singh and his wife Tejinder Kaur, which were dishonoured. Thereafter, again two fresh cheques for the same amount were issued by the petitioner. Petitioner had got invested the amount of the complainant in small schemes being run by his company, hence fraud has been committed by the petitioner with the complainant.

3. Learned counsel for the petitioner contended that the petitioner is innocent and has been falsely implicated in the present case with ulterior motive. He further submitted that petitioner never allured the complainant to invest the amount in his company rather he at his own invested the amount. He further submitted that petitioner has already returned Rs.5,75,600/- to the complainant. He further submitted that petitioner is ready and willing to join the investigation.

4. *Per contra*, learned State counsel, appearing on receipt of advance copy of the petition, has opposed the prayer of the petitioner for grant of anticipatory bail by submitting that petitioner has committed fraud with the complainant, therefore, his custodial interrogation is necessary to complete the chain of events.

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

6. 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

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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.

7. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

8. *Prima facie* it appears that petitioner has cheated the complainant in a planned manner with an intention to deceive him. Petitioner is also involved in one more case under Section 174-A IPC, which has not been disclosed in the petition, which amounts to concealment. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments of the Hon’ble Supreme Court in ***Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114*** and ***Amar Singh v. Union of India and others, 2011(7) SCC 69***. Therefore, petitioner does not deserve the concession of anticipatory bail as his custodial interrogation is necessary.

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9. In view of the above, present petition is dismissed.
10. Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

26.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No