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

CRM-M-27275-2023 (O&M)

Date of decision : 22.08.2023

Devender Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ashish Pundir, Advocate,
for the petitioner.

Mr. Amish Sharma, AAG, Punjab,
assisted by HC Amritpal.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, '*the Cr.P.C.*') has been filed for grant of pre-arrest bail to the petitioner in FIR No.172 dated 14.10.2021, under Section(s) 420/34 of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station Kotbhai, District Sri Muktsar Sahib.

2. Above FIR was registered on the basis of statement made by one Jaswinder Singh with the allegations that petitioner and other co-accused duped the complainant for Rs.10,00,000/-.

3. The Coordinate Bench, on 29.05.2023, granted interim bail to petitioner and relevant part of the same is recapitulated as under:-

*“The instant petition under Section 438 Cr.P.C., has
been filed for grant of anticipatory bail to the petitioner in*

FIR No.172, dated 14.10.2021, under Sections 420, 34 of the IPC, 1860, registered at Police Station Kotbhai (Annexure P-1).

Learned counsel for the petitioner contends that in fact no role has been attributed to the petitioner, who has been implicated merely for the reasons that he issued a cheque No.930816 dated 24.03.2021 amounting to Rs.10,00,000/- in favour of the complainant. The petitioner is a devotee like the complainant and was working pro bono for the trust being managed by Baba Gurpal Singh and however since that trust does not have any bank account, the cheque was issued in the name of the complainant.

Notice of motion.

On the asking of Court, Mr. Rajiv Verma, DAG, Punjab, accepts notice on behalf of respondent-State, who on instructions from ASI Amrik Singh submits that in fact Mahesh Jain and the present petitioner namely Devender Singh both are involved in running a travel agency namely Ikon Overseas Immigration and during the investigation, it has been revealed that Baba Gurpal Singh is actually running a racket unauthorizedly and illegal for sending people abroad along with active connivance of present petitioner and one Mahesh Jain.

Looking into the totality of facts and circumstances, this Court cannot loose sight of the fact that even if the version of the Investigating Agency is taken to be correct so far on the basis of investigation-inquiry so conducted, the complainant is also equally responsible being in connivance with the present petitioner and dispute seems to have arisen on account of sending share out of the money being received by duping innocent people, as present petitioner along with Gurpal Singh and Mahesh

Jain all three are hand in glove apparently on the face of it.

In the light of the above fact and circumstances, wherein the conduct of the complainant is also doubtful, petitioner alone cannot be allowed to go behind the bars, therefore, the petitioner is directed to be released on interim bail in case he joins the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 22.08.2023.”

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required.

5. Above factual position is duly acknowledged by learned State Counsel, on instructions from the police officer present in Court and further stated that custodial interrogation of the petitioner is not required at this stage.

6. Although, learned counsel for the complainant vehemently opposed the prayer of petitioner, but in view of fact that State of Punjab is not seeking custodial interrogation; therefore, objection raised by learned counsel for the complainant is rejected.

7. In view of above, interim order dated 29.05.2023, is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

8. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
9. 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.
10. Disposed off accordingly.

22.08.2023
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(MAHABIR SINGH SINDHU)
JUDGE

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