

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 38284 of 2023
Reserved on 19.09.2023
Pronounced on : 20.10.2023

KIRNA @ KIRAN AND ANR.

Versus

STATE OF PUNJAB

... Petitioners

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Bhanu Pratap Singh, Advocate
for the petitioners.

Ms. Swati Batra, DAG Punjab.

Ms. Ekta Thakur, Advocate for the complainant.

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SANJIV BERRY, J.

By way of present petition filed under Section 438 Cr.P.C the petitioners are praying for anticipatory bail in the event of arrest in FIR (Annexure P-1) detailed as under:-

FIR No.	Dated	Police Station	Sections
72	17.07.2023	Haryana, District Hoshiarpur	406 & 420 IPC

2. Learned counsel for the petitioners contends that in compliance to the order dated 07.08.2023 passed by this Court, the petitioners have already joined in the investigation and as such prays for the aforesaid order to be confirmed. He further contends that the petitioners have no concern whatsoever with the alleged Bank transactions, sanction of loan in favour of

the complainant and even no amount was ever transferred by the complainant to the account of the petitioners.

3. Learned State counsel submits that the petitioners have already joined investigation and not required for further investigation, however no recovery has been effected from the petitioners.

4. Learned counsel representing the complainant has submitted that the petitioners have defrauded the complainant and as such they are not entitled to concession of bail.

5. Duringt the course of the hearing following orders were passed on 07.08.2023:-

“ The petitioners have preferred the present petition under Section 438 of the Code of Criminal Procedure, 1973, seeking anticipatory bail in FIR No. 72 dated 17.07.2023 under Sections 406 & 420, IPC, registered at Police Station Haryana, District Hoshiarpur, (Annexure P-1).

2. Learned counsel for the petitioners inter alia contends that the petitioners are innocent and have been falsely implicated in the case. He further submits that civil litigation is pending between the petitioners and one Preeti Chopra and the petitioners have no concern with the alleged Bank nor any loan was got sactioned by the petitioners. From the bare perusal of the version given in the FIR, the loan amount sanctioned by the Bank was duly credited in the account of the complainant, in which the petitioners have got no concern.

3. Notice of motion.

4. On the asking of the Court, Ms. Swati Batra, DAG, Punjab who is present in Court accepts notice on behalf of the respondent/State and prays for time to file status report/reply.

5. Status report/reply to the petition be filed on or before the next date of hearing i.e. 29.08.2023 with an advance copy to the counsel opposite.

6. In the meantime, petitioners are directed to join investigation within 07 days from today and co-operate in the same and in the event of the arrest of the petitioners, they shall

be released on interim bail on their furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. They shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.”

6. In pursuance to the above said order, petitioners have joined the investigation and are not required for further investigation. Even otherwise from the perusal of the reply submitted by the State it is evident that the allegations against the petitioner are that they got the loan sanctioned in favour of the complainant from the bank amounting to ₹2,00,000/- and in turn committed fraud with him amounting to ₹1,27,000/- as per the reply submitted by the State. The complainant had transferred ₹65,000/- in the account of petitioners and however it is further mentioned that the said amount was transferred by the father of the complainant in three installments amounting to ₹30,000/, ₹30,000/- and ₹5000/-. It is also not disputed that that the loan amount was transferred by the Bank in the account of the complainant. The criminal liability if any would be ascertained only after the trial is over. At this stage they have also joined the investigation and are not required for further investigation as stated above.

7. Consequently, keeping in view the above facts and circumstances and the fact that the petitioners have joined investigation and are not required for further investigation or custodial interrogation, the interim bail granted to the petitioners vide order dated 07.08.2023 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further, they will not tamper with the evidence nor will influence the witnesses; shall cooperate with the investigation as and when so required.

8. The petition stand allowed.
9. Any observation made above shall not be construed as opinion
of this Court on the merits of the case.

(SANJIV BERRY)

JUDGE

20.10.2023

Gyan

- i)

Whether speaking/reasoned?

Yes/No
- ii)

Whether reportable?

Yes/No