

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

CRM-M-40364 of 2020(O&M)

Date of Decision: 23.02.2023

Rajiv Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Gourav Goel, Advocate
 For the petitioner.**

Mr. C.L. Pawar, Addl. AG Punjab.

**Mr. Nitin Thatai, Advocate
For the complainant.**

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 120 dated 15.08.2020, registered under Sections 420, 506 and 120-B IPC at Police Station Daresi, District Ludhiana.

As per the allegations made in the FIR, one Sham Lal was known to the father of the complainant and he lured his father to invest money in a scheme which would give quadruplicate return of money. Father of the complainant in good faith gave Rs.10,00,000/- in cash to Sham Lal. Even thereafter the father of the complainant borrowed Rs.6,30,000/- and handed over the same to Sham Lal who further handed over the same to one person who had come on Aactiva No. PB10FQ-0293. There are also allegations that in all the accused persons took Rs.31,50,000/- from the father of the complainant and thereafter failed to return the same.

The counsel for the petitioner submits that the petitioner was not named in the FIR and his name was disclosed by main accused Sham Lal who was arrested by the police. The counsel for the petitioner further submits that said Sham Lal has already returned an amount of Rs.16,50,000/- to the complainant. The counsel for the petitioner further submits that the petitioner has joined the investigation with the police and has nothing to do with the alleged transactions which were there between the father of the complainant and Sham Lal.

The present petition is opposed by the counsel appearing on behalf of the complainant, who submits that the petitioner is the same person to whom Sham Lal gave Rs.6,30,000/- after taking the same from the father of the complainant.

The State counsel on instructions from ASI Nirmal Singh submits that the petitioner was also party to the fraud committed by Sham Lal. However, the State counsel has admitted the fact that the petitioner was not named in the FIR and further the petitioner has joined the investigation with the police.

I have considered the submissions made by the counsel for the parties.

Admittedly, the petitioner is not named in the FIR and was nominated as accused on the basis of disclosure statement made by co-accused Sham Lal, who was arrested by the police. It has also come on record that lateron Sham Lal has effected compromise and given Rs.16,50,000/- to the complainant. The relevance and admissibility of

disclosure statement, if any, made by co-accused Sham Lal regarding involvement of the petitioner in the present case will be tested during the trial. The petitioner has joined the investigation with the police. It is also apparent that the complainant and his father never directly came into contact of the petitioner and they never handed over any money directly to the petitioner.

In view of the above, no purpose is going to be served by subjecting the petitioner to custodial interrogation at this point of time. Thus, without commenting on the merits of the case, instant petition is allowed and order of interim bail dated 04.12.2020 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(KARAMJIT SINGH)
JUDGE

23.02.2023

Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No