

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37258 of 2019(O&M)
Date of Decision: 26.04.2023

Rakesh Khosla

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. A.P.S. Sandhu, Advocate
For the petitioner.**

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

**Mr. Rahul Bhargava, 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. 194 dated 30.08.2018, registered under Sections 420 and 120-B IPC at Police Station Chheharta, District Police Commissionerate Amritsar City.

The allegations in nutshell are that petitioner and other accused persons lured complainant Radhe Sham to invest money with them with assurance of its return with interest @ 18%. On this, the complainant invested amount of Rs.30,57,500/- with the accused persons but thereafter the accused failed to repay the said amount and even did not make payment of any interest.

The counsel for the petitioner submits that the alleged payments were made by the complainant during the period from 2012 to 2015. He further submits that in 2015, complainant and one Meenu Arora filed civil suit against co-accused Gaurav and other persons with regard to legality of lease deed dated 05.11.2014. The counsel for the petitioner further submits that in the said civil suit, copy of whose plaint is Annexure P-3, there is no mention regarding alleged payments of Rs.30,57,500/-. The counsel for the petitioner while referring to criminal complaint Annexure P-5 filed by the complainant under Section 138 of the Negotiable Instruments Act submits that even in the said complaint there is no mention of the disputed amount of Rs.30,57,500/-. The counsel for the petitioner also referred to Annexure P-11 in order to show that complainant lodged different complaints against co-accused Gaurav with the police but even in the said complaints there was no mention with regard to disputed amount of Rs.30,57,500/-. The counsel for the petitioner further submits that the alleged receipts which are produced by the complainant regarding payment of the disputed amount, are not admitted by the petitioner as he never signed the said receipts. The counsel for the petitioner further submits that petitioner has joined the investigation with the police.

The present petition is contested by counsel for the complainant who submits that the FIR in this case was registered after detailed enquiry. The counsel for the complainant further submits that the receipts in question whereby amount of Rs.30,57,500/- was paid, were duly signed by the petitioner in token of their correctness. The counsel for the complainant further submits that accused also gave cheque of Rs.30,00,000/- in discharge

of their liability but the same was dishonoured and thereafter the matter was reported to the police and consequently FIR was registered in this case.

The State counsel, on instructions from ASI Balraj Singh, submits that the petitioner has joined the investigation and is not required for any further investigation or custodial interrogation as on completion of investigation the police has presented challan and further the trial Court has also framed charges against the accused persons including the petitioner. The State counsel further apprised the Court that during investigation of the case no receipts were produced by the complainant regarding payment of disputed amount.

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

As per the complainant, accused persons including the petitioner lured him and then the complainant invested Rs.30,57,500/- with them who assured to return the said amount with interest @ 18% and the aforesaid amount was paid by the complainant against proper receipts bearing signatures of the petitioner. However, the petitioner has disputed the execution of any such receipts and while referring to Annexure P-3 and Annexure P-11, apprised the Court that both these documents are silent regarding payment of any such amount by the complainant to the petitioner or Gaurav. As per State counsel the complainant has not produced any of the aforesaid receipts regarding payment of disputed amount by the complainant to the petitioner, during the investigation of the case. Further, the petitioner is not required by the police for any further investigation and has been apprised by the State counsel after completion of investigation challan has been presented and now trial Court has also framed charges. In the given

circumstances, no purpose is going to be served by subjecting the petitioner to custodial interrogation at this point of time.

In view of the above, without commenting on the merits of the case, the present petition is allowed and interim order dated 05.09.2019 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

26.04.2023

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No