

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

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**CRM-M-46011-2023
Date of Decision:22.11.2023**

Naresh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Dhruv Gupta, Advocate
for the petitioner.

Mr. Sandeep Vermani, Additional AG, Punjab.

Mr. Rajat Gautam, Advocate
for the complainant.

RITU TAGORE, J

1. I have heard learned counsel for the parties.
2. Vide order dated 29.09.2023, petitioner, Naresh Kumar was granted interim pre-arrest bail by this Court and was further directed to deposit Rs.10 lacs before learned CJM, Patiala upon expressing his willingness to do so.
3. Mr. Sandeep Vermani, Additional AG, Punjab on instructions from ASI Gurdeep Singh, Police Station Shambu, District Patiala submits that the petitioner has joined the investigation.
4. Learned counsel for complainant-Prem Singh submits that petitioner and his son Rohit Sharma committed fraud with complainant, taking Rs.20 lacs from him on the pretext of sending the complainant to USA.

However, they neither sent him to USA nor returned the money. Instead, they issued threats to his life. Despite entering into a mutual compromise in presence of Jasmer Singh, Lambardar of village Tepla, Rakesh Kumar, Ishwar Chand and Harnek Singh residents of Ram Nagar promising to return the amount by 16.06.2023 the petitioner did not fulfill his commitment. The cheque for sum of Rs.20 lacs given by petitioner was dishonoured. Instead of honouring the compromise, the petitioner and his son coined a false story claiming to have received the said amount of Rs.20 lacs from Baljit Kaur mother of Gurpreet Singh, alleging that it was in exchange for handing American dollars of same amount to one Gurpreet Singh, a resident of USA and also obtained an affidavit from said Baljit Kaur.

5. Learned counsel for the complainant states that, in fact, petitioner is an influential person, and Police is not taking appropriate steps in conducting a fair investigation due to petitioner's influence. Also submitted that said Baljit Kaur gave an affidavit alleging that earlier affidavit given by her was obtained under pressure from the daughter of petitioner. It is stated that petitioner does not deserve the concession of bail and prayed to dismiss the same.

6. Opposing the pleas of the counsel for the complainant, the counsel for the petitioner submits that the petitioner is a senior citizen aged about 66 years. Mutual compromise as referred to by the complainant in his complaint was got executed from him and his son under pressure from the Police and complainant also obtained one blank cheque of the disputed amount from him under threat. The petitioner and his son immediately filed a Civil Suit seeking declaration of the compromise dated 27.05.2023 as illegal, null and void outcome of fraud and undue influence. The learned counsel stated that the petitioner has joined the investigation and is cooperating with the Police in all

respect in the investigation of this case. He also deposited Rs.10 lacs before learned Chief Judicial Magistrate, Patiala as directed by this Court vide order dated 29.09.2023. The facts as alleged in the complaint is a matter of trial and release of Rs.10 lac is also the subject matter of outcome of the trial and prayed to allow the application.

7. Learned State counsel refuted the allegations of the counsel for the complainant asserting that proper investigation is being conducted .

8. Undisputedly, the petitioner has joined the investigation and Investigating Agency, at this stage, is not seeking the custodial interrogation of the petitioner for any recovery. In view of these facts and circumstances, interim bail granted to the petitioner is, hereby, made absolute subject to the condition that the petitioner shall appear as and when directed and called by the IO with respect to the investigation of this case and shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.

9. While relying on **Ramesh Kumar Vs. the State of NCT Delhi, 2023 AIR (Supreme Court) 3484** , the counsel for the petitioner before coordinate Bench had objected to the release of the deposited amount of Rs.10 lacs by submitting that the amount in question is a matter of trial.

10. Admittedly the petitioner had deposited Rs.10 lacs with learned Chief Judicial Magistrate, Patiala in compliance of order dated 29.09.2023. The complainant and petitioner have rival claims qua the disputed amount as noticed above. The petitioner and his son have also filed a civil suit challenging the compromise dated 27.05.2023 as illegal, null and void and outcome of duress. He has also challenged the issuance of cheque to the complainant as voluntary. In given allegations the deposited amount of Rs.10 lacs is a subject of trial, and as such the trial Court shall pass an appropriate order for release of the deposited amount and interest accrued thereon accordingly.

11. Accordingly the petition stands disposed of.

(RITU TAGORE)
JUDGE

November 22, 2023
Rimpal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No