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

CRM-M-54915-2022

Date of Decision: 01.02.2023

Upkar Singh Makkar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sahil Khunger, Advocate
for the petitioner.

Mr. Subhash Godara, Additional A.G., Punjab
for the respondent/State.

None for the complainant.

HARSH BUNGER J. (ORAL)

The present petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in case FIR No.403 dated 08.10.2022 (Annexure P-1), under Sections 406 and 420 IPC, registered at Police Station Division No.7, Ludhiana, District Ludhiana.

On 24.11.2022, the following order was passed by this Court :-

“Prayer in this petition filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner in case FIR No.403 dated 08.10.2022 (Annexure P-1), under Sections 406 and 420 of Indian Penal Code, 1860, registered at Police Station Division No.7, Ludhiana, District Ludhiana.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the complaint of Darshan Singh, who has levelled false allegations against the petitioner that on 01.02.2022, the petitioner borrowed an amount of Rs.1,00,000/- from him

and that the petitioner had given two cheques, bearing Nos.875503 and 875502, of ICICI Bank, Feroze Gandhi Market, Ludhiana, of Rs.50,000/- each, as security, to the complainant, however, when the aforesaid cheques were presented in the Bank for encashment of the same by the complainant, they were dishonoured on the ground that the account has been closed. It is further submitted that the petitioner never had any dealings with the complainant-Darshan Singh and no transactions ever took place between him and the complainant. It is further contended that in fact the petitioner is not even known to the said complainant and he has also filed a suit against the complainant and others for rendition of accounts, wherein a stand has been taken that the stolen cheques have been misused, due to which the petitioner had to close his account. It is further submitted that the complainant-Darshan Singh has already filed a complaint under Section 138 of the Negotiable Instruments Act and the present criminal proceedings are gross abuse of the process of law as a civil dispute has been given the tinge of criminal nature by way of the present FIR. Learned counsel further submits that the petitioner is ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Vinay K.Gupta, AAG, Punjab, who is present in the Court, accepts notice on behalf of the respondent/State.

At this stage, Mr. V.P.S. Mithewal, Advocate appears and files Vakalatnama on behalf of the complainant-Darshan Singh in Court today, which is taken on record, subject to all just exceptions.

Learned counsel for the petitioner is directed to hand over complete sets of paper book of this case to learned State counsel as well as learned counsel for the complainant during the course of the day.

List on 01.02.2023.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, he shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner submits that pursuant to the aforesaid order, petitioner has joined the investigation.

Learned State counsel, on instructions from Head Constable Kuldeep Singh, has not disputed the aforesaid fact of joining the investigation by petitioner and submits that his custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and his custodial interrogation is not required at this stage, order dated 24.11.2022, passed by this Court, is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the directions issued above and the bail conditions, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Present petition is accordingly disposed of.

01.02.2023

Apurva

(HARSH BUNGER)
JUDGE