

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CRM-M-58205-2022

Date of decision : 21.03.2023

Devinder Dass

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Ramandeep Singh, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, Senior D.A.G., Punjab
for the respondent-State.

Mr. Dixit Garg, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.231 dated 13.09.2022 registered under Section 420 of the Indian Penal Code, 1860 and Section 24 of the Immigration Act, 1983 at Police Station Jamalpur, District Ludhiana.

The above-said FIR was registered on a complaint made by complainant-Dilwara Singh and Pawandeep Singh alleging that the petitioner is running a Baba Balak Nath temple and he had developed faith in the people. He is also indulged in sending people abroad. The petitioner cheated complainant-Dilwara Singh for an amount of Rs.5,90,000/- on the pretext of sending his son, daughter and relative to Australia and Cyprus and cheated complainant-Pawandeep Singh for an

amount of Rs.14,50,000/- on the pretext of sending him to Canada.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The petitioner has not committed any offence as alleged in the FIR. In fact there is a money dispute between the petitioner and the complainant as the complainant borrowed money from the petitioner and later on the complainant returned the same amount through bank transactions. The son and relative of complainant-Dilwara singh already residing at abroad thus, there is no question arise to send them abroad through the petitioner. The petitioner is made a scapegoat in the present case. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

Per contra, learned State counsel assisted by learned counsel for the complainant has vehemently opposed the present petition and submits that in the police inquiry it was found that a cheating of Rs.20,40,000/- has been committed by the petitioner. Complainant-Dalwara Singh has given Rs.2,70,000/- to the petitioner through bank account and Rs.2,20,000/- in cash and complainant-Pawandeep Singh has given Rs.9,50,000/- to the petitioner through bank account and Rs.5,00,000/- in cash. The petitioner is also involved in 02 other cases of similar nature. For thorough investigation of the case, custodial interrogation of the petitioner is required.

Having heard learned counsel for the parties, I am of the

view that the allegations against the petitioner are serious in nature. Moreover, the antecedents of the petitioner are also not good as he is already involved in 02 other cases of similar nature. It has been observed by the Hon'ble Supreme Court in case ***Gudikanti Narasimhulu Vs. Public Prosecutor, High Court of A.P. : (1978) 1 SCC 240*** that deprivation of freedom by refusal of bail is not for punitive purposes but for the bifocal interests of justice. It has further been observed that it is rational to enquire into the antecedents of the man who is applying for bail to find out whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of cheated amount, custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the

suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

21.03.2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No