

CRM-M-2938-2024

[1]

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2938-2024

Date of decision: 13.05.2024

Shiv Verma @ Shiv Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.S. Grewal, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 438 Cr.P.C. for grant of anticipatory bail in case having FIR No.275 dated 28.10.2023 registered under Sections 406, 420, 120-B of IPC at Police Station Patran District Patiala.

2. The allegations in nutshell are that petitioner and his father took money from complainant with promise to return it with interest @ 1.50 per month. However later on, the accused persons failed to fulfill their promise and also refused to return the principal amount and in this manner, the accused committed cheating and fraud worth Rs.51,20,000/- against the complainant party.

3. The counsel for the petitioner submits that the allegation leveled in the FIR are totally false. It is further submitted that even if the allegations made in the FIR are taken to be correct on their face value, it amounts to breach of contract which does not give rise to criminal prosecution. It is further submitted that merely on the allegation of failure to keep a promise will not be enough to initiate criminal proceedings. The counsel for the petitioner further submits that even the Superintendent of Police, (Operations), Patiala who conducted preliminary inquiry in the

present case observed that the alleged breach of contract attracts only civil liability. The counsel for the petitioner further submits that taking into consideration all these aspects, this Court granted interim bail to the petitioner vide order dated 19.01.2024, with direction to join the investigation. That by virtue of the said order, petitioner has joined investigation, twice and has fully cooperated with the police during the investigation.

4. The present petition is resisted by the State counsel who submits that the petitioner and his son committed fraud of Rs.51,20,000/- with the complainant. However, the State counsel has not disputed the fact that the petitioner has joined the investigation with the police.

5. In light of the contentions raised by the counsel for the petitioner to the effect that dispute between the parties is primarily of civil nature, which is given colour of criminal case just to put pressure on the accused persons, and further the petitioner has joined the investigation with the police, no purpose will be served even if the petitioner is subjected to custodial interrogation at this stage.

6. The question as to whether the accused persons were having fraudulent or dishonest intention from the very beginning at the time of making alleged promise, to deceive the complainant party, is subject matter of trial.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and order of interim bail dated 19.01.2024 is hereby made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

13.05.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**