

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

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2024:PHHC:008002

CRM-M-2472-2018 (O&M)

Reserved on: January 19th, 2024

Pronounced on: January 22nd, 2024

Satbir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Mr. Arun Luthra, Deputy Advocate General, Punjab.

Mr. Jasdeep Singh Gill, Mr. Madhur Singh
and Ms. Harleen Kaur, Advocates
for the complainant.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.215 dated 31.08.2017 under Sections 406, 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station Adampur.

2. Vide order dated 22.01.2018, this Court while issuing notice of motion had directed the petitioner to be released on interim bail and also to join investigation.

3. Learned counsel appearing for the petitioner submits that in compliance of the aforesaid order, which was passed six years back, the petitioner had been joining investigation, as and when called for, and had been cooperating with the investigating agency.

4. Learned counsel appearing for the State, on instructions, has, though, not disputed the factum of the petitioner having joined

investigation as and when called for, but has submitted that the custodial interrogation of the petitioner is still required for the purpose of recovery of the amount in the sum of ₹1 crore 70 lakh, which had been swindled by him from the complainant.

5. Learned counsel appearing for the complainant has also vehemently opposed the prayer made by the learned counsel for the petitioner for making the interim order dated 22.01.2018 absolute. It has been contended by the learned counsel that the petitioner, after colluding with the other accused, induced the complainant, who is an NRI, to part with a huge amount of money in the sum of ₹1 crore 70 lakh, on the pretext of buying him a plot of land, at cheap rates, in Adampur; an amount of ₹1 crore 13 lakh was transferred directly into the bank account of the petitioner while another amount in the sum of ₹30 lakh in cash, was received by the petitioner from Paramjit Kaur (cousin of complainant Ravinder Singh); another sum of ₹25 lakh was transferred by Paramjit Kaur into the bank account of the petitioner. However, after receiving the aforementioned payments, the petitioner had neither got the sale deed executed nor returned the money to the complainant and had instead swallowed the whole amount himself; later on it came to light that an agreement to sell qua the plot in question had already been entered into by Amar Pal Singh in his own name. The petitioner's collusion with Amar Pal Singh in the alleged crime is substantiated by the fact that the petitioner initially filed a complaint against Amar Pal Singh before the S.S.P., Hoshiarpur, but later withdrew it without seeking the permission of the complainant.

It has also been argued that the petitioner was implicated as an accused

in the instant case only after a thorough inquiry conducted by the S.P. (Investigation).

6. Learned counsel has further asserted that the petitioner was the prime beneficiary of the amount i.e. (₹1 crore 70 lakh) as it stood documented that the entire money sent by complainant Ravinder Singh was received by the petitioner through cash and bank transactions. Consequently, custodial interrogation of the petitioner was necessary to find and trace out as to where the swindled money had disappeared, especially since the money had not even been returned to the complainant.

7. In support of his submissions, reliance has been placed by the learned counsel on *Pratibha Manchanda and another Versus State of Haryana and another* passed in Criminal Appeal No.1793 of 2023, where the Hon'ble Supreme Court while cancelling the concession of anticipatory bail granted to the accused, observed that while dealing with anticipatory bail applications, the Courts must consider the gravity of the offence and the need for a fair and fresh investigation as land scams in India had become very common.

8. *Per contra*, learned counsel for the petitioner, while vehemently controverting the submissions made by the counsel for the respondent/State as well as the counsel for the complainant, has asserted that he has been falsely implicated in the instant case as neither was he arrayed as an accused in the FIR, nor was any role, much less by way of a whisper, attributed to him in the alleged crime. It has been further submitted that even a perusal of the contents of the FIR reveals that the only limited role played by him in the alleged transaction was to

facilitate the payment of sale consideration (₹1 crore 70 lakh), on the directions of complainant Ravinder Singh, who was already well acquainted with Amar Pal Singh for the last many years. Furthermore, learned counsel for the petitioner, while drawing the attention of this Court to the allegations levelled in the FIR, has submitted that no allegations have been levelled therein that it was at the behest of the petitioner that the complainant had agreed to buy the plot in question, rather it had been categorically stated by the complainant that it was on the asking of his friend, Amar Pal Singh, he had agreed to buy the plot in question and thereafter, paid the sale consideration in the sum of ₹1 crore 70 lakh to Amar Pal Singh through his relative i.e. the petitioner. Not only this, even all the allegations had been levelled against Amar Pal Singh of neither having executed the registry of the plot in question nor having returned the sale consideration to the complainant. Still further, pertinently, no allegation was levelled against the petitioner in the FIR, however, it was only subsequently false allegations were being levelled against him by the power of attorney holder of the complainant, one Amritpal Singh, who thereafter was replaced by another power of attorney holder i.e. the Satpal Viridi. Moreover, it was also a matter of record that as per the own statement of Satpal Viridi, during an inquiry, ₹43 lakh had been paid by the petitioner to Amar Pal Singh on 07.10.2011 and another sum ₹57 lakh had been paid to him on 16.03.2012 in his presence. Furthermore, a cheque of ₹25 lakh had been issued to one Kulwinder Singh (friend of Amar Pal Singh), coupled with the fact that the petitioner had also paid an amount of ₹2 lakh from his own pocket, on the directions of the complainant.

Amar Pal Singh had also received an amount of ₹45 lakh by way of different blank cheques signed by the petitioner. In support of his submissions, learned counsel for the petitioner has drawn the attention of this Court to Annexure A-1, which is the inquiry report dated 29.01.2018 prepared by Assistant Superintendent of Police, Sub Division Raikot.

9. Learned counsel for the petitioner has vehemently argued that it is evident that the petitioner is completely innocent, however, he is being intentionally roped in to protect the actual culprits, who though had been specifically named in the FIR by the complainant, however, since the actual culprits wielded considerable influence over the police on account of their political connections, they had been let off, for reasons but obvious. He has further submitted that it was apparent that the police had carried out a totally shoddy and cryptic inquiry and instead the petitioner, who had no concern whatsoever with the alleged agreement to sell pertaining to the plot in question, had been conveniently made a scapegoat, which was also discernible from the observations made by learned Additional Sessions Judge, Jalandhar, in its order dated 29.09.2017 (Annexure P-2).

10. Learned counsel has still further argued that not even a single penny out of ₹1 crore 68 lakh received from complainant Ravinder Singh, was ever retained by him, which fact finds due corroboration from the inquiry report, which has been discussed at length in the impugned order dated 29.09.2017, wherein Satpal Viridi had himself admitted to witnessing the handing over of money amounting to ₹1 crore to Amar Pal Singh. It has still

further been asserted by the learned counsel that his role was much more trivial in comparison to that of the mediator, as it was not even the case of the prosecution that he had ever misrepresented anything to the complainant Ravinder Singh on behalf of the proprietor of the plot in question, rather all along, from a perusal of the allegations in the FIR in question as well as the inquiry report, which has been discussed in the impugned order, it is evident that complainant Ravinder Singh had throughout been in direct contact with Amar Pal Singh; shockingly the police had not even attempted to arrest all these named accused, who were in fact the beneficiaries of the agreement to sell and to whom the amount of ₹1 crore 70 lakh had been paid.

11. Learned counsel for the petitioner has, therefore, reiterated that in the aforementioned facts and circumstances, once he had joined investigation as and when called for, coupled with the fact that the case of the prosecution rested on documentary evidence, his custodial interrogation would not be required at all much less for the recovery of the allegedly cheated amount of ₹1 crore 70 lakh. Learned counsel in support has placed reliance upon *Ramesh Kumar Versus The State of NCT of Delhi 2023 LiveLaw (SC) 496* and *Dilip Singh Versus State of Madhya Pradesh LL 2021 SC 31*.

12. I have heard learned counsel for the parties and perused the material placed on record.

13. Coming to the vehement prayer made by the learned counsel for the complainant/power of attorney holder that the custodial interrogation of the petitioner be ordered to trace out the “disappeared money”, the same cannot be accepted for the reasons to

follow:-

Undisputedly, as per the contents of the FIR, the complainant has not alleged any malfeasance qua the petitioner, rather he categorically stated therein that the petitioner had merely facilitated the payment of the sale consideration (₹1 crore 70 lakh) to Amar Pal Singh and his wife Gurpreet Kaur. Furthermore, the complainant, as per the FIR itself, admitted the payment of the aforesaid amount to Amar Pal Singh and his wife by the petitioner, on his directions. The relevant part of the FIR is reproduced as follows:-

“Then I, believing upon these husband and wife, had deposited Rs.01 crore 70 Lakhs from Canada in my chacha’s son Satbir Singh S/o S. Nirmal Singh R/o H.No.25, Ward No.1, Main Road, Adampur, District Jalandhar’s Account No.008201544244 ICICI Bank, Branch Near Bus Stand, Jalandhar and besides, besides, Rs. 25 lakhs was deposited by my masi’s daughter, on being said upon by me, in the account of Satbir Singh and the remaining Rs. 30 lakhs in cash and Rs. 02 lakhs was put in by Satbir Singh from his own side. Like this total Rs. 01 Crore 70 Lakhs was given to Amar Pal Singh and his wife Gurpreet Kaur by my chacha’s son Satbir Singh, on being said upon by me, for buying the plot. Out of Rs. 01 Crore 70 Lakhs, Rs. 25 lakhs was got encashed from bank by Amar Pal Singh’s friend Kulwinder Singh, whose copies of the statement are enclosed.”

14. It is also a matter of record and not disputed that power of attorney holder Satpal Viridi, during an inquiry conducted by A.S.P. (Annexure A-1), admitted that the amount in question had been handed over by the petitioner to Amar Pal Singh in his presence.

15. It needs to be yet again reiterated that criminal proceedings cannot be used for realization of disputed dues or allegedly cheated sums of money. In *Bimla Tiwari Versus State of Bihar and others* passed in Special Leave Petition (Crl.) Nos.834-835 of 2023, the Hon'ble Supreme Court emphasized that the criminal law process, especially while deciding applications for bails should not be used for coercion or recovery of money and rather should be based on the merits of the case much less contingent on the accused making some payments. Furthermore, the Hon'ble Supreme Court in *Dilip Singh Versus State of Madhya Pradesh LL 2021 SC 31* expressly stated that decisions in bail applications should only be made on the nature of accusations, severity of potential punishment, concerns pertaining to tampering with witnesses and the likelihood of an accused absconding. The Hon'ble Supreme Court has been strongly admonishing Courts against acting as recovery agents without a proper trial.

16. The reliance placed by the learned counsel for the complainant on *Pratibha Manchanda's case (supra)* is misplaced and would not come to his rescue as the facts in *Pratibha Manchanda's case (supra)* are clearly distinguishable with the present case. In *Pratibha Manchanda's case (supra)*, there were direct allegations against the accused, who had been extended the concession of anticipatory bail, of forging a general power of attorney in his name and subsequently selling a property worth ₹50 crore for a mere ₹6.6 crores to a third party, without having any concern whatsoever with the property in question, that too by colluding with the revenue authorities.

17. Learned State counsel is seeking the custodial interrogation

of the petitioner for the limited purpose of recovery of the disputed sum of money i.e. ₹1 crore 70 lakh. This prayer cannot be accepted as it needs to be yet again reiterated that criminal proceedings cannot be used for the purpose of recovery of the cheated amount.

18. In the present case, the accusations against the petitioner are of having committed offences under Sections 406/420 and 120-B of the IPC, which are triable by Magistrate and are punishable with a maximum sentence of 7 years. Therefore, in view of the directions issued by the Hon'ble Supreme Court in *Satender Kumar Antil Versus Central Bureau of Investigation and another* passed in Special Leave to Appeal No.5191 of 2021, the offences alleged against the petitioner, fall in category 'A', this Court does not deem it fit to order custodial interrogation of the petitioner, more so since he has been joining investigation as and when required by the investigating agency.

19. As a sequel to the above, the petition is allowed and interim order dated 22.01.2018 is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

20. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

January 22nd, 2024

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes