

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

CRM-M-25643 of 2023
Reserved on:15.01.2024
Pronounced on: 19.01.2024

Amardeep Shahi

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Yogesh Goel, Advocate for the petitioner.
Mr. Amit Rana, Sr. DAG, Punjab.
Mr. Pankaj Bali, Advocate for respondent No.2.

DEEPAK GUPTA, J.

By way of present petition filed under Section 438 Cr.P.C., petitioner has prayed for grant of anticipatory bail in case FIR No.0059 dated 24.04.2023 registered under Section 406 IPC at Police Station City Khanna, Police District Khanna, District Ludhiana.

2. As per the FIR, three separate complaints as moved by Jaswinder Singh Lote, Dheeraj Sharma and Harinder Singh were received after necessary inquiry from SP Office (I/PBI). As per the complaint made by Jaswinder Singh Lote, he was an Advocate by profession in Khanna. Accused Amardeep Shahi (present petitioner) and his father Baldev Raj are known to him, who used to visit his office frequently. It was projected to the complainant that Amardeep Shahi was doing the work of investment in the share market and also doing work of Aviva Life Insurance Company, for which he had the necessary licence. Complainant was also told that there was no need for opening any D-MAT account for these investments. Petitioner gained faith of the complainant. On insistence of the petitioner, an

amount of ₹31 lacs was invested by the complainant with the petitioner, out

of which ₹15 lacs was paid in cash. On the asking of the complainant – Jaswinder Singh lote, his wife Smt. Sheetal Lote gave ₹5 lacs by way of a cheque to the petitioner; whereas his mother Smt. Manjit Lote gave ₹27 lacs on different dates by way of cheque. Petitioner, thus, received total amount of more than ₹56 lacs . Not only this, petitioner also obtained amount of ₹10 lacs from Sidharth Sudaryal, the friend of the complainant, which were transferred to him in his account. One Dheeraj Sharma also invested his amount with the petitioner. It is alleged that both the accused including the petitioner never provided any document regarding investment nor returned the amount, except the paltry amount of ₹6,78,000/- to the complainant and thus, the petitioner had misappropriated the funds of the complainant, his family members and friends. Necessary inquiry was conducted and, thereafter, opinion of the District Attorney was obtained and based thereon, FIR was registered. It was found that a total amount of ₹57,22,000/- has been taken by the petitioner from complainant and others on the pretext of investing the money in the share market on different dates but neither money was neither invested anywhere nor was returned.

3. It is contended by learned counsel for the petitioner that dispute of civil nature has been given the criminal colour; that in the inquiry conducted by SP (I/P.B.I.) Khanna, no opinion was given regarding the commission of any crime, as there was money transaction between the parties only and it is only on the basis of opinion of the District Attorney that the FIR has been registered. Learned counsel contends further that in fact, there were business dealings between the petitioner and respondent No.2 – complainant – Jaswinder Singh Lote regarding the property and that some money was also returned to him. Learned counsel also drawn attention towards the civil litigation pending between the parties and that the

petitioner is ready to join the investigation, as he has been falsely implicated in this case.

4. Strongly opposing the petition, learned State Counsel ably supported by counsel for the complainant drew attention towards the fact that the petitioner received the money from the complainant and others on the pretext of investing the same in the share market and Aviva Life Insurance Company. However, no money was invested therein. Learned State Counsel submits that it is not a case of making investment in the share market and suffering loss. Rather, it is a case where the complainant and others have been cheated and their funds taken by the petitioner on the pretext of investment in the share market, have been misappropriated. Learned State Counsel also submits that custodial interrogation of the petitioner is required to know the details, where the money has been transferred/ invested, if any by him. Prayer is made for dismissal of the petition.

5. Learned counsel for the complainant has also drawn the attention of this court towards Annexures R.2/1 to R.2/5, providing details of mode of payment of the amount, which were transferred by the complainant Jaswinder Singh Lote, his family members and others to the petitioner. Learned counsel for the complainant further drawn attention towards the nature of civil litigation, which was filed by the petitioner just to escape from the criminal liability. The civil suit filed by the petitioner is to seek declaration that he does not owe any liability and to restrain the complainant or his family members from claiming/ demanding any illegal amount from him or blackmail him. Learned counsel contends that civil litigation has been initiated by the petitioner to escape from the criminal liability.

6. I have considered the submissions of both the sides and have appraised the record.

7. No doubt that on initial blush, it would appear to be a simple money transaction but in case the modus operandi is perused, it would make out that petitioner obtained various amounts from the complainant and others on the pretext of making investments in the share market and with Aviva Insurance Company but instead of doing so, he misappropriated the funds. Though counsel for the petitioner contends that there were business dealings regarding the property, but no such details of any property dealings could be cited by learned counsel for the petitioner nor any document to support this contention has been placed on record. It has been observed by Hon’ble Supreme Court in *Preeti Saraf and another Vs. State of NCT of Delhi, 2021 RCR (Criminal) 340* that many times, offence of cheating is committed in course of commercial transaction and that the complaint in its entirety is required to be examined on the basis of allegations made in the same.

8. Having regard to the nature of allegations against the petitioner and the submissions made by learned State Counsel, supported by counsel for the complainant, but without commenting anything on the merits of the case, this Court is not inclined to grant any benefit of anticipatory bail to the petitioner, as custodial interrogation of the petitioner may be required to unearth the entire truth.

Dismissed.

January 19, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No