

202 (1st case)

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

CRM-M-30589-2023 (O&M)

Date of decision : 14.02.2024

Ashutosh Garg

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Manu Sachdeva, Advocate for
Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

Mr. Ashit Malik, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0334 dated 20.05.2023, under Sections 406 & 420 of the Indian Penal Code, 1860, registered at Police Station Thanesar Sadar, District Kurukshetra.

(2) Above FIR was registered on the basis of complaint made by Mam Chand Saini with the allegations that petitioner, along with his father/co-accused-Vinod Kumar, was residing as Paying Guest (P.G.) in his

house and being familiar with his family, accused persons allured him for getting employment for his son and other relatives in the Department of Food Corporation of India against Rs. 15 Lakh each. Complainant transferred some amount through bank and also paid amount in cash (total Rs.43 Lakh). When accused persons could not get the needful done, they further allured the complainant for sending his son and other relatives to Canada and ultimately, they have extracted a sum of Rs.73 Lakh from the complainant by alluring him in a fraudulent manner.

(3) This Court, while issuing notice of motion on 15.06.2023, granted interim bail to petitioner and the same reads as under:-

“Contends inter alia that civil suit is pending between the parties for rendition of account (P-4).

Notice of motion.

Mr. Kiran Pal Singh, AAG, Haryana, accepts notice on behalf of the respondent-State, whereas, Mr. Ashit Malik, Advocate, causes representation on behalf of the complainant; and both seek time to have instructions and/or file written response in the matter.

Posted on 01.08.2023.

In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, 1973.”

(4) Learned Counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.

- (5) On the other hand, learned State Counsel, on instructions, acknowledged that petitioner has joined investigation; but as on today, his custodial interrogation is required. Further submits that petitioner is involved in one other case of similar nature and another case under Section 326 IPC.
- (6) Learned Counsel for the complainant vehemently opposed the prayer of petitioner. However, he acknowledged the fact that civil suit is already pending between the parties.
- (7) In view of above and for the reason that civil dispute is pending between the parties, interim order dated 15.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (8) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (9) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (10) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (11) Disposed off accordingly.
- (12) Pending application(s), if any, shall also stand disposed off.

14th February, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes