

2024:PHHC:133154



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

CRM-M-35037-2024
DECIDED ON: 24.07.2024

BIKRAMJIT SINGH @ VICKY

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No. 153, dated 23.12.2023, under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Nurpur Bedi, District Rupnagar.

2. Facts

The present case was registered at the instance of Kuldeep Singh on the allegation that the petitioner (Bikramjit Singh @ Vicky) allegedly promised to secure jobs for Narinder Singh (complainant's son) and others in the police department, claiming ties with officials. He demanded Rs.10,00,000, stating Rs.3,50,000/- would be given for each candidate. Out of the total amount, an

amount of Rs.10,50,000/- was transferred in the account of Gagandeep Singh. However, neither the petitioner nor Gagandeep delivered the promised jobs or refunded the money. On these allegations, the present FIR stands registered against the petitioner and his co-accused namely Gagandeep Singh.

3. Submissions

On behalf of petitioner

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case, as the alleged amount was transferred in the account of Gagandeep Singh and petitioner has nothing to do with the said transactions. It is further contended that neither a single penny was paid to the petitioner nor he is the beneficiary. The assertion is that no offence under Section 420 IPC has been made out against the petitioner as there is no allegation that the petitioner was, in any manner, involved in an act of instigating, inducing or alluring the complainant or any other person to give money. Moreover, there was a compromise executed on 02.10.2023 between Gagandeep Singh and complainant wherein, the petitioner was one of the witness in the said compromise and later on Gagandeep Singh resiled from the said compromise. The petitioner is ready and willing to join the investigation as and when directed to do so.

On behalf of respondent-State

Learned State counsel assisted by counsel for the complainant has opposed the prayer made in the present petition stating that there is sufficient evidence against the petitioner to prove his guilt. It is evident from the FIR itself that the alleged amount stands transferred in the account of Gagandeep Singh by the petitioner. Moreover, the investigation of the present case is at initial stage.

4. **Analysis and Conclusion**

Heard learned counsel for the parties.

No other argument has been raised by either of the parties.

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.

A perusal of the FIR reveals that the petitioner lured the complainant to part with a huge amount of money running into lakhs on the pretext of getting government job to the son of the complainant as well as other persons. From the FIR itself, it is clear that the petitioner has transferred the amount in the account of Gagandeep Singh, which is sufficient for this Court to infer that the petitioner has defrauded the complainant. Hence, *prima-facie* offence under Section 420 IPC is made out against the petitioner.

It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “**State vs. Anil Sharma**”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable 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 material 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 needs 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 role attributed to the petitioner, this Court is of the view that the custodial interrogation of the petitioner is required to collect the material evidence, which may further enable the Investigating Agency to unearth the ramifications involved in the present case and that will ultimately help the Investigating Agency to reach to a logical conclusion.

In view of the discussions made hereinabove, this Court is of the firm view that the petitioner does not deserve the concession of pre-arrest bail, as such the same is dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

24.07.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No