

CRM-M-37293-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37293-2024
Reserved on: 09.09.2024
Pronounced on: 27.09.2024

Satbir alias Satbeer ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0060	24.05.2024	Vairoke, District Fazilka	420, 406 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.

2. As per the reply dated 11.08.2024, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	56	29.04.2019	420, 120-B IPC	Arniwala
2	55	15.05.2024	420, 406 IPC	Vairo Ke
3	56	15.05.2024	420 & 406 IPC	Vairo Ke
4	61	24.05.2024	420 & 406 IPC	Vairo Ke

3. The facts and allegations are being taken from the translated copy of FIR, annexed with the petition, which reads as follows:

“Complaint against Aman Skoda son of Bhagwan Dass resident of Village Khilchian, Tehsil and District Fazilka, (2) Satbir son of Lekh Raj resident of Village Rangila, Tehsil and District Fazilka for committing fraud with us on the pretext of job. Sir, Requested that I, Jarnail Singh son of Sh. Sohan Singh am resident of Village Khuban, Tehsil Abohar, District Fazilka and I am an agriculturist. (1) That the afore- mentioned persons have committed fraud on the pretext of giving job to my son-in-law Jagdev Singh son of Harcharan Singh. Afore-mentioned persons had said to me that we shall get recruited your son-in- law in Punjab Police as Sub-Inspector. In lieu of which I had paid Rs. 85,00,000/- (Rupees Eighty- Five

CRM-M-37293-2024

Lac Only) at the house of Satbir at Village Rangila, but they did not get recruited my son-in-law in Punjab Police as Sub-Inspector. When I demanded back my amount then they started giving threats to me. In respect to this, I hereby tender my duly sworn affidavit. Copy of affidavit is attached herewith. It is, therefore, requested that strict action be taken against aforementioned persons on the basis of evidence of committing fraud and my amount be recovered and returned to me and justice be given to him."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

ROLE OF PETITIONER:

5. That the role of petitioner in commission of offence is that the petitioner and accused took Rs.85,00,000/- other co- from complainant by way of cheating him the the on pretext of securing job for his son-in-law Jagdev Singh as Sub Inspector in Punjab Police. The petitioner and other accused neither got employed son-in-law of complainant in Punjab nor returned his money rather; threatened him on his demand to return the money. It is also worthwhile to mention here the said accused at the residence of present petitioner. Moreover; the allegations of the complainant have been corroborated by the confession statement of co-accused Amandeep Kamboj alias Aman Skoda mentioned above. Therefore, the petitioner cannot shirk his criminal liability.

EVIDENCE AGAINST PETITIONER:

6. That apart from oral evidence of complainant, allegations of the complainant have been corroborated by the disclosure statement dated 07.07.2024 of co-accused Amandeep Kamboj wherein he categorically confessed that all the accused had cheated the complainant by receiving Rs.85 Lakhs at the residence of petitioner for recruitment of son-in-law of complainant in Punjab Police. Said accused further disclosed that all the three accused (including petitioner) amount among each other. Therefore, such incriminating evidence is sufficient to substantiate the case of prosecution."

CRM-M-37293-2024

7. There was a 6-year delay in reporting the matter because, as per Column 3 of the FIR, the time of the incident is mentioned as 01-02-2018. Although there is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, given the delay, absence of details of the accounts from where the cash was withdrawn, or how the cash was earned, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and

CRM-M-37293-2024

circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

14. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

15. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.