

CRM-M-39468-2023 (O&M)

-1-

204

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39468-2023 (O&M)
Date of decision: 15.02.2024

Sandeep Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. K.S. Rana, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG., Haryana
assisted by ASI-Surender Kumar.

Mr. Neeraj Madaan, Sr. DAG., Punjab.

Mr. S.S. Momi, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.217 dated 05.07.2023, under Sections 120B, 420, 406, 506 read with Section 34 of Indian Penal Code, 1860, registered at Police Station, Barara, Ambala.

(2) Reply dated 14.02.2024 by way of affidavit of Vatsala Gupta, IPS, Senior Superintendent of Police, District Kapurthala, filed on behalf of the respondent-State, is taken on record. Copy thereof has been supplied to the opposite side. Registry to tag the same at appropriate place.

(3) Allegations are that petitioner along with co-accused duped the complainant to the tune of Rs. 22,42,433/- on the pretext of sending him to Canada on work permit basis.

(4) Learned counsel for the petitioner contends that petitioner was granted interim bail by this Court on 19.09.2023 and in pursuance thereof, he has already joined the investigation; thus, his custodial interrogation is not required.

(5) *Per contra* learned State counsel, on instructions, while opposing the prayer submits that although petitioner has joined investigation, but he is not disclosing the whereabouts of co-accused (Balvir Singh). Hence, due to his non-cooperation in the matter, the petitioner does not deserve concession of pre-arrest bail.

(6) Similarly, learned counsel for the complainant also opposed the pre-arrest bail of petitioner, while submitting that recovery of the alleged amount is yet to be made from co-accused (Balvir Singh).

(7) Faced with the above predicament, learned counsel for the petitioner submits that co-accused (Balvir Singh) has been declared as a proclaimed offender; thus, he is having no information about the whereabouts of said Balvir Singh.

(8) Heard learned counsel for the parties and perused the paper book.

(9) It transpires that petitioner was granted interim bail by this Court on 19.09.2023 and the order reads as under:-

“Contends that even from bare perusal of affidavit dated 13.09.2023, there is no such allegation that any amount was credited in the account of the petitioner.

Per contra, learned counsel for the complainant submits that entire payment was deposited in the account of one Balbir Singh on the asking of petitioner.

Learned State counsel is also raising the similar plea.

But there is no material on record uptill now that any amount has gone in the account of petitioner.

Faced with the above situation, learned State counsel seeks time to have further instructions in the matter.

Posted for 16.10.2023.

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 Code of Criminal Procedure, 1973.”

(10) In pursuance of the aforesaid order, petitioner has joined investigation and this fact is duly acknowledged by learned State counsel on instructions from the quarter concerned. However, learned State counsel as well as complainant are opposing the prayer of petitioner solely on the premise that he is not cooperating to know the whereabouts of co-accused (Balvir Singh). It is a matter of record that said Balvir Singh has already been declared as a proclaimed offender by the Court of competent jurisdiction and police is not able to apprehend him despite their best efforts. Thus, in such a scenario, declining the concession of pre-arrest bail to the petitioner for such an onerous task cannot be countenanced; hence, the objection raised by learned State counsel as well as complainant is hereby rejected.

(11) Consequently, petition is allowed. Order dated 19.09.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(12) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(13) 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.

(14) It is made clear that in case of any recurrence on the part of the petitioner, the State would be at liberty to move an application for recalling of this order.

(15) Pending application(s), if any, shall also stand disposed off.

15.02.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>