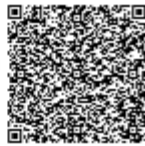


2024:PHHC:136775



101 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-51613-2024
DECIDED ON: 19.10.2024

SUNIL KUMAR

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sukhjit Singh, Advocate,
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 of BNSS, 2023 has been invoked for grant of anticipatory bail to the petitioner in case FIR No. 99, dated 12.09.2024, under Section 420 of the Indian Penal Code, 1860, registered at Police Station Shimlapuri, District Police Commissionerate Ludhiana.

2. Facts

The facts as narrated in the FIR reads as under:-

“An application No. PGD-180292 Complaint No. 177101 dated 13.06.2023 has been received after duly marked from Commissioner of Police Ludhiana for the registration of case against Naresh Kumar Son of Late Mr. Madan Lal Resident of House No. 263, Gali No. 39, Preet Nagar, Shimlapuri, Ludhiana for withdrawal of amount of Rs. 60,000/- from the

account of my parents after their death without taking the consent of other legal heirs and for misappropriation of the gold ornaments including 4 gold rings weighing 3.1/2 Tola and one ear ring after taking the same from my brother Late Gulshan Kumar. The contents of which are to the commissioner of Police Ludhiana subject: complaint against Naresh Kumar son of Late Sh. Madan Lal resident of H. No. 263, Gal no. 39, Preet Nagar, shmlapuri Ludhiana for the withdrawal of the amount of Rs. 60,000/- after the death of my parent without taking the consent of other legal heirs and for misappropriation the gold ornaments of my mother including four gold rings weighing 3.1/2 Tola and ne pair of ear rings after taking the same from my brother late Gulshan Kumar (Phone 9814498766 Naresh Kumar) Naresh Kumar's dishonesty is also evident from the fact that he as per the conspiracy before the death of my parents, my father asked to transfer the property equally in the name of we both brothers Naresh Kumar and Raj Kumar Verma, but Naresh Kumar while not doing the same got transferred the plot in the name of my mother and house in the name of my father in his own name. I have filed the case regarding the same which is pending. Sir, It is respectfully prayed that I Raj Kumar Verma son of Late Sri Madan Lal resident of House No. 152/9-G//22, Street No. 10, Hargobind Nagar, Gyaspura, Ludhiana:-

- 1. That we are three brothers, myself and Gulshan Kumar, sisters Usha Rani and Asha Rani. Among us, my brother Gulshan Kumar died about 2 years ago.*
- 2. That my father, who was an old man, was unable to do any work, due to which he would sometimes go to my place, sometimes to Gulshan Kumar's and sometimes to Naresh Kumar's.*
- 3. My parents' jewelry which often left with my elder brother Gulshan Kumar along with my mother's bank account copies.*
- 4. My parents used to live near me, whom I have been taking care of them and getting them medical treatment from time to time, while staying with me a few days ago my brother Naresh Kumar*

said that he is our parents wanted to take them with him for a few days, so I did not stop my brother because even before that my parents used to go to stay with him for a few days, when my parents went to Naresh Kumar's house, on 7-4-2023 my father Madan Lal died and on the next day on 8-4-2023 my mother died at the house of my elder brother late Gulshan Kumar, where my two nephews Kailash Kumar and Subham Kumar lives. After that, we brothers performed the last rites of my parents together and on the 19-04-2023, the Bhog ceremony of my parents was held. 6. After this, I came to know that my brother Naresh Kumar, following his own will, emptied my father's bank account after withdrawing Rs.60,035 from his bank account number 07630001057816948 on 11-05- 2023. 7. After this it also came to know that my mother's jewelery including four gold earrings and one gold earring was taken by my brother Naresh Kumar from my nephews under the pretext of breaking it. 8. Sir, I am also the legal heir of the movable property of my parents, but my brother Naresh Kumar declared himself as the sole heir by withdrawing money from my father's bank account and jewelry, gold, etc.”

3. Contentions

On behalf of the petitioner:

Learned counsel for the petitioner would contend that there was no intention to misutilise the cheque of his deceased grand-father, which was given to him willingly by his grand-father during his life time, specifically for covering funeral expenses. It is further contended that being unaware of the legal implications, the petitioner as a grandson presented the cheque, not realizing that the deceased person's cheque cannot be encashed. To show *bona-fide*, it is submitted on behalf of the petitioner that he is ready to deposit/return the cheque amount.

He would further submits that on earlier occasions also the petitioner's grand-father, due to his age, entrusted him and his father with managing his finances, including cheque withdrawals. As far as the allegations misappropriation of gold ornaments are concerned, the petitioner relies upon a Will dated 05.03.2023, executed by his grand-father leaving all moveable and immoveable properties including cash to the petitioner's father.

Notice of motion.

On behalf of respondent-State

On the asking of Court, Mr. Jaspal Singh Guru, AAG, Punjab having been served with an advance copy, accepts the notice on behalf of respondent-State. He prays for dismissal of the present petition stating that the custodial interrogation of the petitioner is required to recover an amount Rs.65,000/- as well as gold ornaments, which are alleged to have been misappropriated by the petitioner and his other family members, which otherwise belongs to the petitioner's uncle late Gulshan Kumar now will vest with other legal heirs of late Gulshan Kumar alone.

4. Analysis & Conclusion

Be that as it may, the petitioner at this stage undertakes to deposit the cheque amount in question in account of the complainant within a period of one week from today, to show his *bona-fide*, asserting that there is no ill intent on his part to misappropriate of the said amount. As far as the allegations qua the gold ornaments is concerned, there is no incriminating material as such at this stage.

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail

subject to deposit of cheque amount in question within one week from today. He is directed to join the the investigation within a period of 10 days from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer.

The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

“When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-
(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;
(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) a condition that the person shall not leave India without the previous permission of the Court;
(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.”

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of depositing the cheque amount in question within a period of one week from today as well as joining the investigation within 10 days, the order passed by this Court today shall automatically, stand cancelled.

In the afore-said terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

19.10.2024
sham

- | | |
|---------------------------------|----------|
| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |