

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-61170-2023

Date of Decision : February 21, 2024

Rohit Malhotra @ Rohit KumarPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vansh Chawla, Advocate for the petitioner
Mr. Kewal Singh, Additional Advocate General, Punjab.
Mr. Amrit Singh Kang, Advocate for the complainant

HARKESH MANUJA, J

By way of present petition filed under Section 438 Cr.P.C., prayer has been made for grant of anticipatory bail to the petitioner in case FIR No. 194 dated 10.09.2023 under Sections 420, 506, 120-B IPC, registered at Police Station Tibba, District Ludhiana, wherein the petitioner has been implicated on a complaint made by Jaspreet Singh with the allegations of having duped him of Rs.25 lacs, having induced him dishonestly, in connivance with two other co-accused, namely, Rishipal Bhura @ Kala and Tina Malhotra, to part with the money, thereby causing him huge loss.

2. Learned counsel for the petitioner submits that the petitioner is a poor man; running a food stall where Pardeep Kumar and complainant already known to each other, used to visit. He further submits that the petitioner never introduced the complainant to Rishipal Bhura @ Kala or Tina Malhotra for the purpose of extracting money or playing fraud upon him and rather it was the complainant who on his own became greedy and

gave money to them. Learned counsel also submits that complainant was not even directly known to the petitioner and rather he used to visit the food stall having acquaintance with Pardeep Kumar and thus the petitioner has nothing to do with the alleged offence.

3. On the other hand, learned State counsel assisted by Sh.Amrit Singh Kang, Advocate submits that the petitioner and his co-accused, Pardeep Kumar, were both instrumental in inducing the complainant to handover the money to Rishipal Bhura @ Kala and Tina Malhotra by alluring him with the promise of double the amount invested, in return. He also points out that the investigating agency has the clear cut evidence in this regard, which includes withdrawal of amount of Rs.25 lacs from the accounts of complainant and his wife, handed over to Rishipal Bhura @ Kala and Tina Malhotra with active connivance of the petitioner, besides an audio recording of conversation in this regard and thus, he does not deserves the concession of pre-arrest bail as he was not cooperating with the investigation.

4. I have heard learned counsel for the parties and gone through the paper-book, but unable to find substance in the submissions made on behalf of the petitioner.

5. From the facts and circumstances as mentioned in the FIR and the investigation done so far, it is apparent that the amount of Rs.25 lacs was withdrawn by the complainant and his wife and handed over to the accused on account of a consorted and collective effort on the part of petitioner along with other co-accused which fact has even been pressed by the investigating agency, in its reply, while relying upon a mobile

conversation between the complainant and the co-accused Tina Malhotra, wherein she assured the complainant about the return of the amount.

6. Keeping in view the nature of the allegations and gravity of offence committed by the petitioner in the given circumstances, who dishonestly induced the complainant to part with huge money thereby resulting into his loss, in the humble opinion of this Court, custodial interrogation of the petitioner would be necessary so as to unearth the *modus operandi* adopted by the petitioner and his accomplices. Further, looking into the allegations on the whole, the *mens rea* which is one of the essential ingredients of cheating is clearly present as the amount received from the complainant through an act of deception has been retained dishonestly by the petitioner and his accomplices, against the consent of the complainant, thereby causing loss to him. Moreover, the contradictory stand taken by all the accused goes against them.

7. Consequently, the present petition is dismissed.

8. Pending application (s), if any, shall also stand disposed of.

February 21, 2024
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no