

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64962-2023 (O&M)

Date of Decision : February 21, 2024

Pardeep KumarPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Rana Harjasdeep Singh, Advocate for the petitioner
Mr. D.B. Singh, Sr. DAG, 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 merely a factory worker earning salary of Rs.18000/- per month. He further submits that when petitioner discussed the Scheme offered by Tina Malhotra with Rohit he found that the same appeared to be a fraudulent one, but complainant himself showed his willingness to enquire details

about it and proceeded further. He again submits that the petitioner neither induced the complainant; nor received any amount from him.

3. On the other hand, learned State counsel assisted by Sh.Amrit Singh Kang, Advocate submits that the petitioner and his co-accused, Rohit 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, which was handed over to Rishipal Bhura @ Kala and Tina Malhotra with active connivance of the petitioner and thus, he does not deserve 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 From the facts and circumstances as mentioned in the FIR, it is apparent that the amount of Rs.25 lacs was withdrawn and handed over by the complainant on account of a consorted and collective effort on the part of petitioner along with other co-accused which fact has even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, thus, 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	yes/no
Whether reportable?	yes/no