

Rajinder Singh Cheema Vs. State of Punjab

CIS No.BA/279/2021

CNR No.PBHO010009762022

Present: Sh.Vikas Kuthiala, Adv., ld.counsel for applicant/accused
Ld.APP for State

This order of mine shall dispose of the present anticipatory bail application moved by the applicants/accused Nirpal Singh Dhaliwal, Amarjit Singh, Vikas Goel and Rajinder Singh Cheema in case bearing FIR No.22, dated 27.2.2018, under section 420, 120-B IPC, PS Dasuya, Hoshiarpur. The FIR in the present case was registered on the statement of complainant Harinder Pal Singh Virk against Nirpal Singh Dhaliwal, Amarjit Singh, Ajmer Singh, Vikas Goyal Directors and Rajinder Singh Cheema with the allegations that earlier he had filed two complaints under section 138 of the Negotiable Instrument Act against M/s Geetu Construction Company and its Directors pending in the court of Shri Bagicha Singh, Sub Divisional Judicial Magistrate, Dasuya and Ms.Roopaa Dhaliwal, Judicial Magistrate Ist Class, Dasuya. During the pendency of the said complaints, the accused expressed their willingness to effect compromise. They came to his house on 19.9.2017 with the assurance that they will make payment through drafts and cheques which will be encashed. Ultimately the matter was compromised and in the complaint pending in the court of Shri Bagicha Singh, Sub Divisional Judicial Magistrate, Dasuya, Nirpal Singh Dhaliwal being Director of M/s Geetu Construction paid Rs.22,50,000/- through drafts and Rs.2,50,000 and Rs.5,00,000/- by way of two cheques. Similarly in the complaint pending in the court of Ms.Roopaa Dhaliwal, Judicial Magistrate Ist Class, Dasuya, they made payment of Rs.4,00,000/- vide two cheques one cheque in the sum of Rs.2,75,000/- and another cheque in the sum of Rs.1,25,000/-. Accordingly the said complaints were withdrawn. When the said cheques were presented for encashment, these cheques were dishonoured due to insufficient funds. All the accused in connivance with each other made false assurance and representation which were acted upon by them and in this way they have cheated the complainant. With these allegations the

present FIR has been registered. Hence, the present anticipatory bail application.

Notice of the bail application was given to the State. Learned Addl. Public Prosecutor appeared on behalf of the State and contested the same.

I have heard the learned counsel for the accused/applicants, Addl. Public Prosecutor for the State and also perused the police file.

The ld.counsel for the applicants/accused contended that the applicants No.1 and 2 were granted concession of anticipatory bail by the Hon'ble High Court vide order dated 16.12.2019 and applicant No.3 was also granted anticipatory bail by the Hon'ble High Court vide order dated 25.11.2020. The applicant No.4 has also been granted anticipatory bail by the ld.Sessions Judge, Hoshiarpur, vide order dated 22.9.2020. Once the applicants have settled the dispute with complainant as recorded by the Hon'ble High Court in its order Annexure P2 and 3, the applicants filed the CRM-M-15755 of 2021 before the Hon'ble High Court for quashing of FIR No.22, dated 27.2.2018 and the Hon'ble High Court vide its order dated 8.4.2021 issued notice to the State and complainant for 20.9.2021. The police presented the challan before the ld.trial court on 19.1.2021. The applicants were not served with notice and even their presence has been directed to be secured by coercive means of non bailable warrants by the ld.trial court for 23.2.2022. As the matter has been settled, the police will file closure report before the ld.trial court. Nothing is to be recovered from the applicants and no purpose will be served by keeping them behind the bars. The ld.counsel for applicants/accused has thus, prayed for acceptance of the present anticipatory bail application.

On the other hand, ld.APP for State, who has contested the same and prayed for dismissal of the same.

This court has heard the contentions raised by the ld.APP for State and ld.counsel for applicants/accused and have also gone through the ld.trial court's record minutely.

Perusal of ld.trial court record reveals that only non bailable warrants of all the applicants/accused have been issued by the ld.trial court. Since applicants/accused No.1 and 2 have already been granted

anticipatory bail by the Hon'ble High Court of Punjab & Haryana, Chandigarh, vide bail order dated 16.12.2019, applicant/accused No. 3 has been granted anticipatory bail by the Hon'ble High Court vide order dated 25.11.2019 and applicant/accused No.4 has been granted anticipatory bail by the Id.Sessions Judge, Hoshiarpur, vide order dated 22.9.2020, the present anticipatory bail application has become infructuous as all the applicants/accused were required to directly appear before the Id.trial court instead of filing the present anticipatory bail application before this court. The present anticipatory bail application is hereby dismissed being infructuos. Ld.Lower court's record be returned and present bail application papers be consigned to the record room after due compilation.

Pronounced
Dated: 22.2.2022

(Jatinder Kaur-II)
Addl.Sessions Judge, Hoshiarpur
(UID No.PB0062)

Rakesh Kumar, JW

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Arguments heard. Vide my separate detailed order of even date, present anticipatory bail application has become infructuous and the same is hereby dismissed being infructuous. Ld.Lower court's record be returned and present bail application papers be consigned to the record room after due compilation.

Pronounced
Dated: 22.2.2022

(Jatinder Kaur-II)
Addl.Sessions Judge, Hoshiarpur
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Rakesh Kumar, JW