

IN THE COURT OF KULDIP KUMAR KAREER, ADDITIONAL SESSIONS
JUDGE, LUDHIANA.UID NO.PB0042.

BA No. 74 of 6.2.2018
Case No. BA/ 1034/2018.

PBLD010027542018
Date of Order:16.3.2018

State	Versus	1. Monu Sharma aged about 33 years son of Nand Lal resident of House no.492, Ward no.25, Khooni Maseet, Moga.
		2. Baljeet Singh aged about 30 years son of Joginder Singh resident of ward no.5, Ajit Nagar, Basti Gobindgarh, Moga.

.....Accused/Applicant.

FIR No. 24 of 19.1.2018

U/s 420 of IPC

P.S. Jodhan

Application Under Section 438 Cr.P.C.

Present: Sh.Dinesh Katyal, Advocate, counsel for the accused/applicant.
Sh. T.S.Grewal Addl.P.P.for the State assisted by Sh.Gagandeep
Verma Advocate for the complainant.

ORDER

1. This order shall dispose of bail application U/s 438 Cr.P.C filed by applicant/accused in the above noted case.
2. Upon notice, learned Addl.P.P for the State appeared, but no reply

has been filed.

3. Police record has been perused and the arguments advanced by the learned counsel for the applicant/accused and learned Addl.P.P for the State have been heard.

4. Perusal of the record reveals that this case has been registered on the basis of statement of Ishar Singh son of Ramjit Singh who has alleged that he entered into an agreement to sell the Tempoo Travel bearing registration no. PB01-9434 in favour of Monu Sharma son of Nand Lal resident of Moga for a sum of Rs.5,10,000 on 10.8.2017. Baljit Singh @ Nikka was partner of Monu Sharma and both of them had agreed to purchased the said vehicle. At the time of agreement, the complainant was paid a sum of Rs.40,000/- as advance money and the remaining amount was to be paid after one month. A loan of Rs.2,60,000/- was also outstanding and was to be paid to Cholla Finance Company, Feroze Gandhi market , Ludhiana. The complainant handed over the RC and other documents of the vehicle to Monu Sharma and Baljit Singh and they also took the possession of the vehicle at the time of agreement itself but later on they refused to pay the remaining amount and also the outstanding amount of loan of the vehicle and in this manner the applicants/accused did not pay the remaining amount nor paid the installment to the finance company but

further sold the vehicle to one Ragu Sharma resident of Pathankot and in this manner they cheated the complainant.

5. During the course of counsel for the applicant/accused has argued that the vehicle in question was not agreed to be sold in the sum of Rs.5,10,000/- . In fact, it was agreed to be sold in the sum of Rs.4,70,000 only out of which Rs.40,000 paid as advance money and no loan was to be paid by the applicants/accused. The learned counsel for the applicants/accused has relied upon a receipt issued by M.S.Car bazar, Moga which purportedly bears the signatures of both the parties. The learned counsel for the applicants/accused has further pointed out that there is no mention of the outstanding loan installments in the receipt. Therefore, it cannot be said that the applicants/accused had cheated the complainant. The learned counsel for the applicants/accused has further contended that the vehicle has already been recovered by the police. The applicants /accused would not be required for any further purpose and they are ready to joint the investigation, therefore, the concession of anticipatory bail should be granted to the accused.

6. Learned Addl. PP for the stated assisted by private counsel for the complainant has contended that this case of cheating and, therefore, the applicants/accused are not entitled to concession of anticipatory bail.

7. Having weighed the contentions of learned counsel for the parties this court is of the considered view it appears to be debatable whether any offence under section 420 of IPC is made out or not. The applicants/accused have already joined the investigation and recovery of the vehicle has already been effected in this case. In these circumstances, it would be appropriate if the concession of bail is granted to the applicants/accused.

8. As a result of above discussion, the application is allowed with an order that in the event of their arrest by the Arresting/Investigating Officer, the applicants shall be released on anticipatory bail by the Arresting/Investigating Officer subject to the condition enshrined in section 438(2) Cr.P.C. Needless to add that the interim order dated 1.3.2018 is hereby made absolute. Police record be returned and file be consigned to the record room.

Announced in open court

on:-16.3.2018.

Deepak Spal, Steno-II

(Kuldip Kumar Kareer),

Additional Sessions Judge,

Ludhiana.UID No.PB0042.