

**IN THE COURT OF SH. JASPAL VERMA,
ADDL SESSIONS JUDGE, FAZILKA.
(UID:PB0136)**

Bail application No.3128 dated 2019

CIS No. BA-1477/2019

CNR No.PBFZC0-004022-2019

Date of Order: 27.8.2019

Gaurav Sharma, aged 33 years son of Krishan Kumar Sharma,
(resident of Basti Hazoor Singh, Fazilka wrongly mentioned), resident
of #155-A, village Ganjuana, Tehsil and District Fazilka.

Applicant/accused

Versus

State of Punjab.

Respondent

FIR No.123 dated 21.8.2019

U/s 420/120-B of IPC

P.S. City Fazilka

Application for grant of bail under Section 438 Cr.P.C.

Present: Sh. Sanjeev Kamboj, Advocate for the applicant/accused.
Sh. Gurbaj Singh, Addl. PP for the State assisted by
Sh. Varinder Mohan, complainant.

ORDER

1. Heard on the bail application filed by the applicant/accused ***Gaurav Sharma*** claiming that as per version of FIR no.123 dated 21.8.2019, U/s 420/120-B IPC, P.S. City Fazilka, District Fazilka, no offence of cheating and criminal conspiracy or any other offence mentioned in the FIR is made out against him. The applicant/accused has only been arrayed as an accused being son of the main accused Krishan Kumar Sharma although he is not having any concern with the land mentioned in the FIR, agreement and other transactions of cheques as alleged in the contents of FIR. No transaction of money has been made to the applicant by the complainant and the FIR is misuse of process of criminal law. It is averred that only remedy available to the complainant is under the civil laws and the present FIR has been lodged on account of pressure. The complainant and his brother have themselves failed to get the sale deed executed and now they have misused the cheques given by the accused party by obtaining memos from the bank. It is averred that only allegation against the applicant is that he has signed the memo of compromise dated 13.6.2019 alongwith other witnesses. It is averred

that the present FIR has been registered on account of political pressure and the same is without any substance. Now the police is adamant to arrest the applicant/accused. So, he be granted anticipatory bail.

2. Upon notice of the bail application, Sh. Gurbaj Singh, Addl. PP appeared on behalf of the State. Sh. Varinder Mohan, Complainant has also come present in person in the court. Addl. PP for the State assisted by the complainant opposed the bail application on the ground that the applicant/accused in criminal conspiracy with his father Krishan Kumar Sharma cheated the complainant and recovery of amount of Rs.52,00,000/- allegedly taken by the accused is to the affected. Keeping in view the gravity of offence, they prayed that the bail application filed by the applicant/accused be dismissed.

3. I have heard learned counsel for the applicant/accused, learned Addl. PP for the State assisted by Sh. Chander Mohan, Complainant and have gone through the police file produced by SI Krishan Lal from P.S. City Fazilka, District Fazilka.

4. The present application for anticipatory bail has been filed by the applicant/accused **Gaurav Sharma** in this case bearing FIR no.123 dated 21.8.2019 U/S 420/120-B IPC registered against the

applicant/accused and his co-accused at P.S. City Fazilka, District Fazilka to release him on anticipatory bail on the ground that he has been falsely implicated in the present case and no offence whatsoever has been committed by him. From the perusal of the FIR, he never cheated anybody and never received any money from the complainant. No doubt he signed the compromise as a witness between the parties but for that he cannot be arrayed as an accused. On the other hand, Addl. PP appearing on behalf of the State as well as the complainant himself have contended that present the applicant/accused has actively participated in the crime under Section 420/120-B of IPC alongwith his father who is prime accused in this case and he actively conspired with him to cheat the complainant for an amount of Rs.52,00,000/- which was taken as total sale consideration amount but the accused have failed to execute the sale deed in terms of agreement. Later on, accused also gave four cheques of Rs.13,00,000/- each payable on different dates but even two cheques have been dishonoured for insufficient funds. So, accused was having due knowledge that the cheques will be dishonoured and thus they have cheated the complainant and also failed to return the sale consideration money to the tune of

Rs.52,00,000/- to the complainant. As such, their contention is that the applicant/accused is not entitled to get anticipatory bail. Perusal of the file shows that the complainant Varinder Mohan filed an application before SSP, Fazilka against the accused Krishan Kumar Sharma thereby stating that he and his brother Chander Mohan had entered into an agreement to sell for purchase of land measuring 31 Kanal 8 Marla and paid the consideration amount in total but since wheat crop was sown, so the sale deed was not got executed and 15.5.2019 was fixed for execution of the sale deed. On the said date, accused dilly delayed the matter and then told that he will return the money. He failed to return the money and gave post dated cheques as per compromise and even the cheques payable on 15.7.2019 have bounced. On the basis of said application, the present case was registered against accused Krishan Kumar Sharma and Gaurav Sharma for the offences under Sections 420/120-B of IPC as the applicant/accused is also son of co-accused Krishan Kumar Sharma and actively conspired in the transaction. So, from the perusal of the file, it is clear that the applicant/accused alongwith his co-accused have misappropriated the amount of Rs.52,00,000/- of the complainant party and have also not

got executed the sale deed in his favour and also the cheques given by the accused party have bounced. So, it is clear that the amount of Rs.52,00,000/- is yet to be recovered from the accused party and applicant/accused is none else but son of the main accused Krishan Kumar Sharma. So, keeping in view the gravity of the offence and circumstances of the present case, no ground is made out to release the applicant/accused on anticipatory bail in this case. Therefore, the anticipatory bail application filed by the applicant/accused **Gaurav Sharma** is hereby dismissed. Police record be returned. Before parting with this order, it is desired that the police should adhere to the guidelines strictly given by Hon'ble Apex Court in **Arnesh Kumar's case** before arresting of any of the accused. Bail application file be consigned to the record room.

Pronounced in the open Court
Dated:- 27.8.2019
Deepak Kumar
Stenographer Gr.II

Sd/-
(Jaspal Verma)
Additional Sessions Judge
Fazlika/UID-PB-0136

Gaurav Sharma Vs. State of Punjab
BA-1477/2019

Present: Sh. H.B. Kamboj, Advocate for the applicant/accused.
Sh. Gurbaj Singh, Addl. PP for the State assisted by
Varinder Mohan, complainant.

Arguments heard. Vide my separate detailed order of even
date, present bail application has been dismissed. Police record be
returned. Bail application file be consigned to the record room.

Pronounced in the open Court

Dated:- 27.8.2019

Deepak Kumar
Stenographer Gr.II

Sd/-
(Jaspal Verma)
Additional Sessions Judge
Fazlika/UID-PB-0136