

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

201

**CRM-M-21530-2020
Date of decision: 14.10.2020**

AMRIK SINGH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Tushar Madaan, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondent-State.

Mr. Vivek Thakur, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.206 dated 10.06.2020 registered under Section 24 of the Immigration Act, Sections 120-B, 406, 420 and 506 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Karnal Civil Lines, District Karnal to which Sections 370 and 385 of the IPC were added later on.

The above said FIR was registered on written complaint made by Arshdeep Singh to SHO Police Station Karnal Civil Lines,

District Karnal. In the complaint Arshdeep Singh alleged that in December 2018 on recommendation of his maternal uncle he met accused Amrik Singh (the petitioner) in his office where his co-accused Vikram @ Vicky was also present. Accused Amrik Singh assured to send him to USA and told him that the same will incur expenses of Rs.36 Lakhs out of which amount of Rs. 21 Lakhs will have to be paid in advance and balance amount of Rs. 15 Lakhs will have to be paid after he reached U.S.A. His father sold his land in January, 2019 and thereafter he gave amount of Rs. 2 Lakhs and his passport to Amrik Singh. Accused Amrik Singh instead of sending him to USA arranged to send him to Greece, then to Spain and thereafter to Mexico. He objected and during his travel he was also maltreated as mentioned in the complaint. After return to India he alongwith his father met Amrik Singh in his office and asked him for refund of the amount but accused Amrik Singh said that he had spent the amount and asked him to refer 2-3 boys desirous of going abroad and after taking money from them he would pay the amount to him. On 09.06.2020 he alongwith his father and brother in law Baljinder Singh met accused Vikram @ Vicky and Amrik Singh to demand return of the money who threatened to kill him.

Apprehending his arrest, the petitioner has filed the present petition for grant of anticipatory bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sh. Rajiv Kumar, HPS, Deputy Superintendent of Police, Karnal.

The complainant has also appeared through his counsel and opposed the petition.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The complainant actually reached U.S.A. and returned to India as he could not adjust there. The complainant has not suppressed the relevant documents. The alleged occurrence took place in May, 2019 but FIR was lodged in June, 2020 with undue and unexplained delay of more than one year. The petitioner has license of consultancy under the Punjab Travel Professional Regulation Rules, 2013. The petitioner has been witch hunted by the police and 14 other FIRs have been falsely registered for harassing the petitioner. The petitioner is physically handicapped and is suffering from various medical ailments. In compliance with order dated 17.09.2020 the petitioner joined investigation and his custodial interrogation is not required for any legitimate purpose. Therefore, the petitioner may be granted anticipatory bail.

In support of his arguments learned Counsel for the petitioner has placed reliance on order dated 18.08.2017 passed in **CRM-M-10648-2017 titled as Gulshan Kumar vs. State of Punjab** granting anticipatory bail to the petitioner therein on similar facts.

On the other hand learned State Counsel has submitted that the petitioner cheated the complainant and dishonestly induced him to pay amount of Rs. 23 Lakhs. In compliance with order of this Court, the petitioner joined investigation but his custodial interrogation is required for effecting the recovery and ascertaining the modus operandi and

other details of the crime. The petitioner is also involved in 14 other cases of similar nature. The petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

In P. Chidambaram v. Directorate of Enforcement (SC)
: 2019(4) R.C.R.(Criminal) 875 Hon'ble Supreme Court observed as under :-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See also **D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434**, **State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213** and **Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305.**)

Keeping in view the above referred legal perspective, the facts and circumstances of the case, nature of accusation against the

petitioner, the fact that custodial interrogation of the petitioner is required for thorough investigation of the case to ascertain the modus operandi, other persons involved and also making recovery of the amount involved and his involvement in 14 other cases of similar nature, but without commenting on merits, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

As the facts of the present case are evidently different, observations in **CRM-M-10648-2017 titled as Gulshan Kumar vs. State of Punjab** relied upon by learned Counsel for the petitioner are not applicable and are not of any help to the petitioner.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is dismissed and interim anticipatory bail order dated 17.09.2020 is vacated.

14.10.2020
kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No