

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

106

**CRM-M-42900-2020
Date of decision: 21.12.2020**

Pardeep

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Shubham Saroha, Advocate
for the petitioner.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.337 dated 22.08.2019 registered under Sections 418, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station City Hisar, District Hisar to which Sections 182, 193, 196, 202, 464, 465, 474, 511 and 120-B read with Section 34 of the IPC and Sections 8 and 9 and 13 of the Prevention of Corruption Act, 1988 were added later on qua co-accused.

The above said FIR was registered on written complaint submitted by Manoj Kumar, Manager, HDFC Ergo General Insurance Company Limited. In the complaint detailed allegations were made regarding racket of making fraudulent claims by showing death of persons, who were suffering from cancer or other terminal ailments and were got insured from various insurance companies under multiple policies, to have occurred due to accidents in collusion with the

doctors/staff of the hospitals and concerned public servants/police officials involved. Pawan Bhoria (Sonu) from Kundli, Sonipat and Sunil Khrab and Sandeep Khrab were stated to be involved in the racket besides others. It was also mentioned that HDFC Ergo General Insurance Company Limited had received 25 claims for 3.43 crores whereas the value of claims received across the insurance industry was Rs.21 crores. Two cases of claim of Satyanarayan and Bhana Ram who were alleged to have died due to injuries sustained in fall from the bullock-cart and in bull fight respectively were referred to in the complaint. Pursuant to registration of FIR, the police investigated the case and during investigation found that Kuldeep was suffering from cancer. On his death his brother-in-law Ram Mehar gave false complaint to the police regarding his accidental death and claim of Rs.15 lakhs was paid by HDFC Ergo General Insurance Company Limited out of which Rs.2,30,000/- were left in the account of nominee Suman wife of Kuldeep and remaining amount of Rs.12,70,000/- was transferred through RTGS to the account of the present petitioner. The amount was withdrawn from his account and amount of Rs.6 lakhs was paid to Pawan who suffered disclosure statement that he has given amount of Rs.1 lakh each to Rajesh, Rakesh and Sahil. Amount of Rs.6,000/- was recovered out of the amount of Rs.3 lakhs from accused Pawan.

Notice of motion.

Pursuant to supply of advance copy, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

I have head learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner was not named in the FIR and there were no allegations in the FIR against him. On completion of investigation, challan has been filed by the police against co-accused Naresh, Ram Mehar @ Gogly, Padam, Rajesh Kumar and Sandeep. Co-accused Sandeep, Rajesh, Padam and Sahil have been granted regular bail by learned Additional Sessions Judge, Hisar. The petition for grant of anticipatory bail has been wrongly dismissed on the ground of his custodial interrogation being necessary for recovery of amount of Rs.70,000/-. The police was pressurizing the petitioner to become a witness against other co-accused and when he expressed his inability, the petitioner has been illegally arrayed as an accused. The petitioner is ready to join the investigation and his custodial interrogation is not necessary in the case. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State Counsel has submitted that the petitioner is involved in the racket of making of fraudulent claims by showing death of persons, suffering from cancer or other terminal ailments, to have occurred due to injuries suffered in accident. Amount of Rs.12,70,000/- was credited to the account of the petitioner which was withdrawn and distributed to other co-accused involved. Recovery of the amount of Rs.70,000/- retained by him is to be made. Custodial interrogation of the petitioner is necessary for thorough investigation of the case. The petitioner does not deserve grant of

anticipatory bail. Therefore, the petition may be dismissed.

In ***P. Chidambaram Vs. 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 ***State Rep. by The CBI Vs. Anil Sharma : (1997) 7 SCC***

187, the Supreme Court held as under:-

"4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

In *Jai Prakash Singh Vs. 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 facts and circumstances of the case and material on record prima facie showing involvement of the petitioner in the crime, also the fact that custodial interrogation of the petitioner is necessary for thorough investigation of the case, for ascertaining the modus operandi and involvement of other persons in commission of the crime, effecting recovery of the amount in question from the petitioner and also collection of material evidence available in this regard, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is hereby dismissed.

21.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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