

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

CRM-M-2453-2021

Date of decision:-9.7.2021

Rajesh Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Kamal Kant, Advocate
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

Mr.Vivek Sharma, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Rajesh Sharma, aged about 24 years, resident of village Gwalra, Israna, Panipat, an accused in FIR No.0336 dated 9.11.2020, under Sections 420, 465 and 506 IPC, registered with

Police Station Israna, Panipat.

Briefly stated, the facts of the case as per the prosecution story are that complainant Ashish son of Sh.Ramesh, resident of village Gwalra, Teshil Israna, District Panipat had submitted a written complaint to the police for initiating legal action against accused Rajesh Kumar for playing fraud by preparing false record of date of his birth as 15.7.1996 hiding his actual date of birth i.e. 2.11.1982 and forging documents in the form of 10th class mark-sheet and higher education.

Interalia, in the complaint, the complainant contended that a matter for appointment of Lambardar of village Gwalra, Tehsil Israna, District Panipat in place of Sh.Ramesh deceased father of complainant was pending before Tehsildar, Israna, who had appointed Rajesh Kumar accused as Lambardar relying upon the documents, which were forged to reflect date of birth of Rajesh Kumar as 15.7.1996, when according to record of Chowkidar, his actual date of birth is 15.7.1982; when Rajesh Kumar was admitted in Government School by his father, his date of birth was disclosed as 2.11.1982 but Rajesh Kumar produced certificate from Hindu Senior Secondary School, Vajipur, Titana showing his date of birth as 15.7.1996 to get undue benefit. On receipt of this complaint, formal FIR was recorded.

Apprehending his arrest, the present petitioner had approached the Court of Sessions at Panipat seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Panipat. However, his such application was dismissed by the said Court vide detailed order dated 7.1.2021. As such, the present petitioner

has approached this Court by way of filing the instant petition asking for the similar relief, which request is being opposed by the State counsel and counsel appearing for the complainant.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

From the record, it comes out that various documents reflect different dates of birth of the petitioner. Now he is claiming that his date of birth is 15.7.1996. In support of his that contention, he is relying upon record of Hindu Senior Secondary School, Vajipur, Titana from where he had passed 10th and 12th class, whereas as per record of village Chowkidar, the date of birth of Rajesh is 15.7.1982. Similarly in the record of Government School that very date is mentioned. Though in the North Delhi Municipal Corporation Birth record as well as Geeta Middle School, Panipat record and PAN Card his date of birth is mentioned as 15.7.1996 but during the course of investigation it has transpired that the date of birth of the petitioner originally mentioned in the birth record and in early school record is 15.7.1982 and this very date of birth is mentioned in the record of Government Hospital, Panipat, which lend credence to the prosecution case that he has changed his date of birth by about 14 years, obviously to get benefit while applying for service or otherwise. As per the ossification test report dated 17.2.2021, his age was between 25 to 40

years. That report is neither here nor there. Instead of giving specific finding with regard to age of petitioner/accused, a vague report giving age of petitioner between 25 to 40 i.e. difference of 15 years has been given. A person indulging in such type of acts is certainly not entitled to discretionary equitable relief of anticipatory bail. The petitioner is said to be involved in another criminal case registered vide FIR No.300 dated 7.10.2020, under Sections 447, 427, 511 IPC and Section 3 of the PDPP Act, registered at P.S. Israna, Panipat, which goes to show that he has got a criminal bent of mind and there is every likelihood of his having committed criminal offences. Although in terms of the directions issued by this Court, he has joined the investigation but as stated by the State counsel, he has not rendered cooperation in the investigation not giving the complete facts within his knowledge.

Therefore, the custodial interrogation of the petitioner is necessary for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the facts and circumstances of the case do not call

for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

9.7.2021

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No