

CRM-M No.3847 of 2021
Date of Decision : 28.01.2021

Sukhdeep Singh

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. WaliaPresent : Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.109 dated 22.12.2020 registered under Sections 420/120-B IPC at Police Station SadarRaikot, District Ludhiana.
3. Learned counsel contends that the petitioner has been falsely implicated and that he has nothing whatsoever to do with the allegations, as levelled in the FIR with regard to obtaining money from the complainants or with regard to any assurance to get employment for the complainants' children in the MES.
4. Notice of motion.
5. Learned State counsel accepts notice and vehemently opposes the prayer for grant of anticipatory bail on the ground that material available reveals receipt of money by the petitioner from the

complainants for getting employment in the MES for their children and that in the circumstances, the exact role played by the petitioner and co-accused in holding out false promises to the complainants is to be ascertained, besides money paid to the petitioner and co-accused is to be recovered, for which custodial interrogation of the petitioner is essential.

6. I have considered the submissions of learned counsel. A perusal of the allegations in the FIR reveals that 10 persons paid Rs.38,70,000/- to the petitioner and co-accused-BhusanPande and Avadh Bihari Upadhayaon the basis of assurances held out by them for securing jobs in the MES for their children, that the petitioner won over the confidence of the complainants by projecting that he knew Mani Bhushan Pande, of Banaras who could provide jobs to their children in the MES, whereupon the complainants gave documents to the petitioner in the year 2016 as were demanded by the petitioner, whereafter he got money deposited from the complainants in the bank account of Mani Bhushan at Banaras and promised the complainants job for their children, sent fake entry letters to the children of the complainants on which some of the complainants, as well as their children went to Devalali (Nasik) along with the petitioner where for about one month, they were kept in a hotel but none of themwere permitted entry in the MES office and on annoyance being expressed by the complainants/their wards, a meeting was arranged by the petitioner with Mani Bhushan Pande who persuaded the children to wait. The petitioner is also alleged to have taken the children on four different occasions to the MES office after giving them allurement of having arranged a job for them but they were not allowed

entry in the MES office. Further allegations are that the complainants/their wards were shown a fake list allegedly affixed in the MES office but the accused in connivance with each other duped the children and the petitioner never gave any satisfactory answer and thereafter went away to Lucknow and when the complainants met the petitioner's father in Lucknow, he berated them and told them that they could not cause any harm to his son. On receipt of the aforementioned complaint, the matter was got enquired into, Statements recorded and it was found that the petitioner on retiring from the BSF contacted one Avadh Bihari Upadhyay who was earlier working with him and they in connivance with Mani Bhushan started taking money from the complainants/ their children on the assurance of getting them jobs in the MES, that the petitioner took money in advance from the children from his village, as well as surrounding villages, after alluring them for providing them jobs in the MES and the remaining amount was deposited by the petitioner in the account of Mani Bhushan, whereafter in connivance with each other, they kept on making excuses and after calling the applicant party to Nasik made them sit there for many days and later on turned them back. Thereafter, they sent fake entry letters to the complainants' children but they were not allowed to enter the MES Force Centre on the basis of the said entry letters. Details have also been given of various amounts deposited by the complainants in the accounts of Avadh Bihari Upadhyay, Mani Bhushan Pande, as well as the petitioner i.e. on 26.10.2016 an amount of Rs.50,000/- and on 09.01.2017, an amount of Rs.20,000/- was transferred in account No.33574553151 of

SBI Bank in the name of the petitioner [by Jeevan Kumar as per the learned State Counsel on instructions from ASI Pahra Singh], besides, Rs.4 lakhs was given in cash to the petitioner by Buta Singh for getting job for his children, after taking the same on loan from Commission Agent Satpal, besides Rs.2,50,000/- was given in cash by Karamjit Singh son of Darshan Singh, resident of Barsi to the petitioner on different occasions in the presence of his family members for getting job for his son Mandeep Singh. Rs.1 lakh was given to the petitioner in the presence of Buta Singh son of Budh Singh at Raikot. Gulzar Singh son of Bachan Singh residents of Barsi gave Rs.1 lakh to the petitioner for getting job for his son Nirmal Singh, in the month of February, 2016 in the house of Sachbir Singh in the presence of Harjit Singh Bawa and Sachbir Singh. Rs.1 lakh was given in cash to the petitioner in the presence of Gurjit Singh son of Gurdev Singh resident of Barsi. Thereafter, number of complainants transferred money in the account of the co-accused, after talking to the petitioner and on 29.09.2016 on the saying of petitioner-Sukhdeep Singh, Visakha Singh transferred Rs.1 lakh from his SBI account No.11284163877 in the account of Mani Bhushan Pande. Thereafter, Jatinder Singh son of Amar Singh gave Rs.1 lakh directly to the petitioner, after visiting his house and transferred Rs.2,50,000/- in account number 50200015494372 of Mani Bhushan Pande in HDFC Bank as per details given by the petitioner. Likewise, Gurpreet Singh son of Bhupinder Singh resident of Barise gave Rs.1 lakh to the petitioner directly after visiting his house and the remaining

account No.09881000003773 of Punjab and Sind Bank in the account of Raja Ram Upadhyay given by the petitioner. During the enquiry, the petitioner is stated to have entered into a written agreement on 01.05.2018 to return the money of the complainant till 30.06.2018 but later on, he refused to return the money. Position noted above reveals that the petitioner in connivance with Mani Bhushan Pande and Avadh Bihari Upadhyay committed fraud, after hatching conspiracy to cheat the complainants.

7. In view of the position noted above, as well as requirement to ascertain the exact role played by the petitioner and other co-accused in holding out false promises to the complainants to provide them jobs in the MES, money to be recovered from the petitioner and co-accused, custodial interrogation of the petitioner is absolutely essential. Reference in this context can be made to the decision of Hon'ble the Supreme Court in '*CBI versus Anil Sharma*' 1994 (4) RCR (Crl.) 268 that effective interrogation in a case like this would not be possible if the protective umbrella of anticipatory bail is available to the accused, as in said eventuality, interrogation of the accused would become an empty formality.

8. Accordingly, in the light of serious allegations levelled of a large number of people having been cheated, role played by each of the accused is to be ascertained besides money paid to the petitioner and other accused is to be recovered, I am of the considered view that the order passed by the learned Additional Sessions Judge, Ludhiana, dismissing the petition

interference. No ground is made out for grant of pre-arrest bail. Accordingly, the petition for anticipatory bail is dismissed.

9. However, nothing stated hereinabove would be taken as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

January 28, 2021
'Rajneesh'

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