

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

1.

CRM-M-22588-2021

Date of Decision : June 09, 2021

ASHWANI AND ANR

.....Petitioners

VERSUS

STATE OF PUNJAB

.....Respondent

2.

CRM-M-22614-2021

KAPIL KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Vishal Aggarwal, Advocate
for the petitioners in CRM-M-22588-2021.

Mr. Piyush Sharma, Advocate
for the petitioner in CRM-M-22614-2021.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

These are the two petitions filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.107, dated 29.05.2021, under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956, registered at Police Station Canal Colony, District Bathinda.

Since both the cases arise out of the same FIR, the same are taken up together for decision.

CRM-M-22588-2021 has been filed by two persons namely, Ashwani and Gagan, whereas, CRM-M-22614-2021 has been filed by one Kapil Kumar.

As per the FIR, when police officials were on patrolling, they were informed by one ASI Kulwinder Singh that he has just received the information that Kapil Kumar son of Mohan Lal has taken a hotel Food Villa on Ring Road, Bathinda on rent and Gagan Singh, resident of Bank Colony, Bathinda and Ashwani, resident of Street No.5-1/2 Trivani Mandir, Bhatti Road, Bathinda have been made partners and they have employed one Kulwinder Singh as a Manager over there. All the above said persons call boys and girls from outside and are indulging in immoral trafficking and also they are earning huge amount of money through them out of which some of it is given to girls and they retain the balance amount and in case raid is conducted then all of them can be caught red-handed doing the business of immoral trafficking alongwith girls/ladies and the customers. Thereafter, the police party proceeded towards the hotel for conducting raid.

Mr. Vishal Aggarwal, learned counsel for the petitioners in CRM-M-22588-2021 has submitted that the petitioners have been falsely implicated in the present case. He has submitted that there is no partnership deed available with the police to show that the petitioners were partners of Kapil Kumar, who had in fact taken the hotel on rent. He further submitted that there was no decoy witness and the authenticity of the raid could not be ascertained. He further submitted that whether the

case involves any immoral trafficking or not is yet to be ascertained and there can also be a chance that if at all some couples were found that would be out of consensual affair.

Mr. Piyush Sharma, Advocate, learned counsel for petitioner-Kapil Kumar in CRM-M-22614-2021 has submitted that the purported rent deed which is in the possession of the police although, is in the name of the petitioner but according to the petitioner the signatures on the rent deed were forged. He further submitted that the petitioner is employed at some other place and he cannot afford to take the hotel on rent due to his poor financial status and therefore, the petitioner was falsely implicated in the present case.

Mr. H.S.Multani, learned AAG, Punjab on instructions from SI Gurmeet Singh has submitted that petitioner-Kapil Kumar alongwith other two petitioners, namely, Ashwani and Gagan had taken the hotel on rent for the purpose of doing the business of immoral trafficking. He has submitted that whether the signatures of Kapil Kumar were forged or not can be decided only during the appropriate proceedings and cannot become a ground for grant of anticipatory bail. He further submitted that it is a case where raid was conducted on the spot for the purpose of ascertaining as to whether any immoral trafficking is conducted in the hotel or not and, therefore, there was no opportunity left for arranging a decoy witness and, therefore, the arguments raised by the learned counsel for the petitioners cannot be sustained. He further submitted that total 5 rooms were being operated for immoral trafficking and 3 couples were found from 3 different rooms and 2 couples were waiting outside and

were sitting in an objectionable manner. He further submitted that the matter was extremely serious in nature because it involves immoral trafficking and it is extremely essential to have custodial interrogation of the petitioners for the purpose of proper investigation. He further submitted that large public interest is involved in the present case and therefore, has opposed the grant of anticipatory bail to the petitioners.

I have heard the learned counsel for the parties.

On the basis of information from a police official, a raid was conducted in the hotel and on the spot it was found that allegedly there were three couples in three rooms of the hotel and two couples were waiting outside in an objectionable manner as per the learned counsel for the State. The mere fact that the purported rent deed executed by Kapil Kumar, one of the petitioners, bore forged signatures of Kapil Kumar as per the learned counsel for the petitioners would not be a sufficient ground per-se for grant of anticipatory bail. The argument raised by the learned counsel for the petitioners that no decoy witness was associated would also not be sustainable in view of the fact that as per the prosecution the raid was conducted immediately on the basis of information of police official. Although, seriousness of offence is not per-se a ground for denial of anticipatory bail but when large public interest is involved and the offence involved is of immoral trafficking, then certainly such a magnitude of seriousness can be considered as a ground for denial of anticipatory bail. It is yet to be determined as to for how long if at all the petitioners had been into this business and their role in the commission of offence is to be ascertained by way of investigation

and it would be certainly expedient in such like matters that custodial investigation is carried on.

In view of the above, I do not deem it fit and appropriate to interfere in the present matters to grant anticipatory bail.

Consequently, both the present petitions are hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

June 09, 2021
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No