

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101+203)

CRM No. M-40444 of 2021(O&M)

Date of Decision : 10.12.2021

Satish Kumar

...Petitioner

Versus

State of Haryana

...Respondent

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vineet Jakhar, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioner is for the grant of anticipatory bail in respect of FIR No. 0022 dated 02.02.2020 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Behal, District Bhiwani.

Learned counsel for the petitioner argues that in the present case, the allegations, which have been alleged against the petitioner are totally false and frivolous and no money has ever been taken by the petitioner on the pretext of providing employment rather, the money was taken as a friendly loan from one Narender, for which the cheques were issued. Learned counsel for the petitioner submits that as the petitioner is ready to join the investigation and cooperate, the petitioner may kindly be granted the benefit of anticipatory bail.

At the time of the hearing of the petition on 28.09.2021, learned counsel appearing on behalf of the petitioner had undertaken that the petitioner is ready to discharge his liability with regard to cheques, which have been given to the complainant and as nothing is to be recovered from the petitioner, he may kindly be granted the interim bail. Accepting the said plea, the petitioner was granted interim protection.

On the last date of hearing on 29.11.2021, learned counsel for the State submitted that though the petitioner had come to join the investigation but he did not comply with the undertaking with regard to discharge of his liability as undertaken before this Court and rather, the petitioner has not divulged any information with regard to the allegations, which have been alleged with regard to securing of appointment through illegal means and extorting money from the innocent people.

On the said date, learned counsel for the petitioner sought another adjournment to comply with the undertaking. Today, learned counsel for the petitioner submits that he is not liable to pay the cheque amount because the cheques according to him, do not reflect the liability, which he is to discharge. Learned counsel for the petitioner submits that the petitioner is ready to undergo the trial so as to come out clean with regard to the allegations alleged against him.

Learned State counsel submits that though, keeping in view the order passed by this Court dated 28.09.2021, the petitioner came to join the investigation but he was evasive. He did not cooperate much less the compliance of the undertaking, which was given before this Court of discharging his liability, on the basis of which, he had secured the interim bail. Learned State counsel submits that not only the trial of the money,

which the petitioner had received on the pretext of providing jobs, is to be elicited from the petitioner but the same is also to be recovered from him.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, the allegations against the petitioner are serious so as to cheat innocent people on the pretext of providing Govt. Jobs. The specific allegations have been made against him. Not only this, the issuance of the cheques by the petitioner has not been disputed. On being asked, if cheques in question were given to one Narinder, as being argued, then how the cheques so given were in the name of the complainant, no satisfactory explanation was extended, which shows that the stand being taken by the petitioner needs to be effectively scrutinize so as to elicit the truth behind the allegations. Further, the conduct of the petitioner before this Court is such that it cannot be said that in case petitioner is directed to join the investigation and cooperate, he will divulge the truth for the reason that the petitioner initially undertook before this Court that he is ready to discharge his liability as given in the cheques, from which undertaking, he has resiled after getting the interim bail.

Not only this, the petitioner has not cooperated with the investigating agency when asked about the allegations. If the petitioner is not truthful before this Court and has rather mislead this Court by giving false undertaking so as to get interim bail cooperating with the investigation by the petitioner is highly doubtful which is reflected from the conduct of the petitioner itself, which act dis-entitles him for the grant of discretionary relief.

Further, this is not a case, where allowing the petitioner to join

into investigation and co-operate will achieve purpose of investigation. Even the Hon'ble Supreme Court of India in *State represented by the C.B.I. Vs. Anil Sharma*, 1997(4) R.C.R.(Criminal) 268, has held that in case where serious allegations have been alleged and the truth needs to be elicited from the accused, the same can only be done through the custodial interrogation as compared to questioning a suspect, who is already on anticipatory bail.

In the present case, keeping in view the facts and circumstances of this case and also the conduct of the petitioner, it cannot be said that the truth can be elicited by the investigating agency only by directing the petitioner to associate with the investigation and cooperate. The custodial interrogation of the petitioner is necessary to find out the truth behind the allegations.

No ground is made out to grant the benefit of anticipatory bail to the petitioners.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

As the main petition has been decided, learned counsel for the petitioner does not wish to press CRM Nos. 42286, 42287, 42289 and 42290 of 2021 and the same may kindly be disposed of as such.

Applications disposed of as not pressed.

December 10, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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