

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19959-2022
Reserved on: 17.05.2022
Pronounced on: 18.05.2022

Bahadur Singh
...Petitioner(s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Ms. Poonam Verma, Advocate
for the petitioner.

Mr. H.S. Sitta, Asst. A.G., Punjab.

Mr. H.P.S. Kochhar, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
66	01.04.2022	Tripri, District Patiala	408, 420, 468, 471 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 28 of the bail petition, the accused declares that he has no criminal antecedents.
3. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. It is appropriate to refer to the relevant portions of the bail petition, which read as follows:

“3. That brief facts of the present case are that the Petitioner was working as a Direct Marketing Associate for 2-wheelers loan with M/s Goyal Auto Enterprises, Rajpura Road, Patiala. His services were outsourced from M/s Sigma Staffing and he used to get salary from the said staffing agency only.

4. That the job of the Petitioner at the Auto dealership was to attend the customers who were interested in auto loans. He used to explain loan schemes to them and explain the installments and other modalities.
5. That the Petitioner used to assist the customers in filling up forms and KYC etc. It was his job to put the Aadhar Card of customers for online verification.
6. That it is important to mention here that one Lalit Rawat was posted as the Credit Sales Manager of the dealership who used to approve every loan case after receiving Aadhar Card verification of the customers directly. Even the CIBIL score of customers was also received directly by him. There was a separate Field Investigation Team also appointed for this purpose who used to report to him directly regarding loan approvals.
7. That it is extremely apposite to mention here that the Petitioner had no role in receiving Aadhar Card verification of the customers of approving their loans, in any manner.
8. That the said Lalit Rawat used to report to one Narinder Singh Rana posted as the Area Sales Manager of Bajaj Finance Ltd. Who used to pass every loan case after approval from said Lalit Rawat.
9. That the said Lalit Rawat and Narinder Singh Rana were incharge of approving the loan cases and later collection of installments with the assistance of a separate team.
10. That the said Lalit Rawat, Credit Sales Manager used to receive pretty good incentives for the loan cases approved by him.
11. That the Petitioner had a very limited role at the initial stage of documents collection from the customers for loan cases.
12. That the Petitioner had no role in bills generation any vehicle which was done by the Accounts department and all the loans were approved by the Credit Sales Manager.
13. That the Petitioner was never any signing authority in any sales or loan case. However, the Bajaj Finance Ltd. Submitted complaint dated 24-08-2021 to the SSP, Patiala for registration a case against the Petitioner and the said Lalit Rawat, Credit Sales Manager for cheating, forgery and misappropriation etc. for approving fake loan cases.
14. That the Petitioner was called the Tripuri Police Station, Patiala for interrogation. He duly went there and narrated his version to the Police and explained the factual position of the case.

15. That, however, the Police recorded his statement on own and made him sign the same the Police Station.”

5. Ld. counsel representing the State opposes bail. The contention on behalf of the complainant is that the petitioner as well as Lalit Rawat or may be some of their accomplices have defrauded the company and they are not entitled to any bail.

REASONING:

6. There are specific allegations against the petitioner that he had personally gone to take delivery of 7-8 vehicles from M/s Goyal Auto Enterprises. Thus, there is an eyewitness's account of the delivery of the motorcycles, which were sold on fake documents. If the loans had been sanctioned to genuine persons, then there was no reason for the petitioner to personally visit to the showroom and getting the delivery of the vehicles.

7. The argument raised on behalf of the petitioner that it is Lalit Rawat who is the main accused and the investigator has given him clean chit, is premature. The investigation is going on and role of Lalit Rawat is yet to be ascertained. Therefore, on this ground also, petitioner fails to make out a case.

8. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

9. In Gurbaksh Singh Sibbia v State of Punjab, 1980 (2) SCC 565, (Para 30), a Constitutional Bench of Supreme Court held that the bail decision must enter the cumulative effect of the variety of circumstances justifying the grant or refusal of bail. In Kalyan Chandra Sarkar v Rajesh Ranjan @ Pappu Yadav, 2005 (2) SCC 42, (Para 18) a three-member Bench of Supreme Court held that the persons accused of non-bailable offences are entitled to bail if the Court concerned concludes that the prosecution has failed to establish a prima facie case against him, or despite the existence of a prima facie case, the Court records reasons for its satisfaction for the need to release such person on bail, in the given fact situations. The rejection of bail does not preclude filing a subsequent application. The courts can release on bail, provided the circumstances then prevailing requires, and a change in the fact situation. In State of Rajasthan v Balchand, AIR

1977 SC 2447, (Para 2 & 3), Supreme Court noticeably illustrated that the basic rule might perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh when considering the question of jail. So also, the heinousness of the crime. In Gudikanti Narasimhulu v Public Prosecutor, (1978) 1 SCC 240, (Para 16), Supreme Court held that the delicate light of the law favors release unless countered by the negative criteria necessitating that course. In Prahlad Singh Bhati v NCT, Delhi, (2001) 4 SCC 280, Supreme Court highlighted one of the factors for bail to be the public or the State's immense interest and similar other considerations. In Dataram Singh v State of Uttar Pradesh, (2018) 3 SCC 22, (Para 6), Supreme Court held that the grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously, compassionately, and in a humane manner. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

10. In the light of ratio of the judicial precedents mentioned above, the petitioner's case does not fall in the category of cases where bail ought to be granted.

11. In Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enrope in the crime and would not misuse his liberty. [See 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].

12. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than

questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.

13. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

14. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, shall stand disposed of.

(ANOOP CHITKARA)
JUDGE

May 18, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.