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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55377-2022
Date of Decision: 05.12.2022

Manoj Kumar

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ramandeep, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No. 156 dated 16.07.2022, under Sections 420 and 120-B IPC, registered at Police Station Bhawanigarh, District Sangrur, Punjab.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and in fact he had not taken the alleged amount of Rs. 7,25,000/- from the complainant and therefore, he may be considered for the grant of anticipatory bail.

On the other hand, Mr Amit Rana, learned Senior Deputy Advocate General, Punjab has stated that he has received an advance copy of the present petition and he has also sought instructions from ASI Sukhdev Singh who is also present in the Court and submitted that firstly, the present petition is not maintainable because the petitioner had earlier

also filed a petition for grant of anticipatory bail vide CRM-M-36630-2022 and the said petition was dismissed as withdrawn on 27.09.2022 and now second petition has been filed after a gap of about seven weeks but there is no change of circumstance on the basis of which the present petition has been filed. He submitted that a perusal of the order by which he had withdrawn the petition would show that the learned counsel had withdrawn the petition after arguing for a while and thereafter sought permission to withdraw. Now the present petition has been filed after changing of counsel but there are no cogent or strong reasons for the maintainability of the present second petition. Secondly, the petitioner has actively concealed material facts from this Court and has misled the Court. He submitted that the petitioner is involved in another FIR of similar nature which is FIR No. 291 dated 16.10.2020, under Sections 419,420,171, 465, 467, 468, 471, 395, 342, 483, 201 and 120-B IPC and Section 25/54/59 of Arms Act, Police Station Bhawanigarh and this FIR was lodged against the petitioner about two years before the present FIR but he actively concealed this fact from this Court by specifically mentioning in para No.11 of the petition that the petitioner is not involved in any other FIR. He submitted that the prayer for grant of anticipatory bail is a discretionary relief although it affects the freedom of an individual but a person who comes to the Court must come with clean hands and the present petition where he has specifically stated that he is not involved in any case is supported by an affidavit of the petitioner himself which has been duly notarized on 22.11.2022 and therefore, not only that the petitioner has concealed and misled the Court but has also committed a perjury by filing a false affidavit before this Court. Thirdly, the allegations in the present FIR were specific qua the

petitioner. As per the allegations, the petitioner on 25.06.2017 took Rs. 7,00,000/- from the complainant at his house in the presence of one Amritpal Singh and thereafter the complainant again gave Rs. 25,000/- to Amritpal Singh for getting assured to get a job in the Income Tax Department and thereafter the petitioner had given a cheque No.044932 as the security to the complainant. Learned Senior Deputy Advocate General, Punjab further submitted on instructions that in fact the petitioner was a master mind of the gang wherein the *modus operandi* adopted was that one of the persons pretend as Income Tax Officer and take money from innocent persons for getting job in the Income Tax Department which is a Government job. He submitted that the *modus operandi* adopted in aforesaid FIR No. 291 dated 16.10.2020, the petitioner alongwith the other co-accused had rather raided the house of the complainant of that case by pretending themselves to be Income Tax Officers and thereafter extracted money from them. He submitted that the custodial interrogation of the petitioner is required in the present case for the purpose of elicitation of truth and not only for the recovery of the amount but also the involvement of other persons and the manner in which the present offence has been committed. He submitted on specific instructions from ASI Sukhdev Singh that there is strong apprehension that in case the petitioner is granted anticipatory bail, then he may not only abscond from justice but he may also influence the witnesses and may also repeat the offence and has therefore vehemently opposed the grant of anticipatory bail to the petitioner even on merits.

I have heard the learned counsel for the parties.

It is a case where the petitioner had earlier filed a petition for

grant of anticipatory bail vide CRM-M-36630-2022 and after arguing for a while he sought permission for withdrawal of the same and it was dismissed as withdrawn on 27.09.2022 and after a gap of about seven weeks, he filed another petition by changing the counsel. The order passed in the aforesaid petition is reproduced as under:-

“After arguing for a while, learned counsel for the petitioner seeks permission to withdraw the instant petition.

Learned State counsel has no objection for the same.

Resultantly, the petition in hand stands dismissed for having been withdrawn”.

The petitioner has not been able to show any change of circumstance as to how a second petition would be maintainable after a gap of about seven weeks. Even otherwise also the factual position which as stated by the learned Senior Deputy Advocate General, Punjab with regard to the allegations in the present case wherein the petitioner had allegedly extracted money i.e. Rs. 7,25,000/- for getting the complainant job in Income Tax Department and the *modus operandi* adopted in another FIR cannot be ignored. The gravity and seriousness of the offence would disentitle the petitioner for grant of anticipatory bail especially when the State has expressed strong apprehension that in case the petitioner is granted anticipatory bail, then he may not only abscond from justice but he may also influence the witnesses.

The petitioner has filed the present petition for grant of anticipatory bail but he has not come to the Court with clean hands. A perusal of para No.11 of the petition would show that he has specifically

stated in this para that he is not involved in any other FIR. Para No.11 of the petition is reproduced as under:-

“11. That apart from the above mentioned case, petitioner is not involved in any other FIR and he has not been declared as proclaimed offender by any Competent Court of law till date”.

This petition is also supported by the affidavit of the petitioner which has been duly notarized and in para No.2 of the affidavit it has been specifically stated that the contents of the petition from para No.1 to 11 are true and correct to the best of his knowledge and belief of the deponent and no para of it is false and nothing has been concealed therein. However, on the other hand the learned Senior Deputy Advocate General, Punjab has stated that rather about two years ago the petitioner was involved in one other FIR and details of the same has been mentioned by him as above. He also stated that the offence in that case was also similar in nature whereby the house of the complainant of that case was raided by the petitioner and the other accused of that case pretending themselves to be Income Tax Officers and thereafter took money from him. Be that as it may, a person who seeks to knock the doors of the Court by filing a petition especially for grant of anticipatory bail has to come with clean hands and he cannot be permitted to pollute the system of administration of justice. Therefore, on this ground as well the petitioner is not entitled for the grant of anticipatory bail. Although the conduct of the petitioner would amount to perjury but taking a lenient view this Court deems it fit and proper to impose costs upon the petitioner since he has filed a false affidavit before this Court.

Consequently, the present petition is hereby dismissed with

costs of Rs. 20,000/-. The costs shall be deposited in the office of Chief Judicial Magistrate, Sangrur within a period of three months from today. After the deposit of the costs, the Chief Judicial Magistrate, Sangrur shall transmit the same to the Punjab State Legal Services Authority. In case the costs are not deposited within a period of three months, then the same shall be recovered from the petitioner as arrears of land revenue.

To come up on 13.03.2023 for compliance purposes.

A copy of the order be sent to the Chief Judicial Magistrate, Sangrur.

05.12.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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