

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

218+105

CRM-M-727-2023 (O&M)
Date of decision: 21.02.2023

PARAMJIT KAUR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CRM-M-2782-2023 (O&M)

RAM KRISHAN

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rahul Rampal, Advocate
for the petitioner(s).

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J.

This common order shall dispose of above-mentioned two petitions,
as they arise out of same FIR.

Present petitions have been filed under Section 438 of the Code of
Criminal Procedure for grant of anticipatory bail in FIR No.211 dated 07.10.2022,
under Sections 420 and 120-B of IPC registered at Police Station Sarabha Nagar,
District Ludhiana.

Briefly, put the facts are that the FIR has been registered on the basis
of the complaint made by complainant Neeraj Anand, wherein it has been alleged
that complainant was having visiting terms with Dharampal, whose son had
completed his studies and was looking for a job. In the year 2018, the
complainant met with ASI Ram Krishan through Dharampal and in that meeting,

ASI Ram Krishan told the complainant that he along with his wife Paramjit Kaur is doing business with international company Cryptobulls, which used to run exchange through website and deals in crypto currency. At that time, ASI Ram Krishan also told the complainant that he is joining new people in the company and provide a ID to them. He assured the complainant that there will a very good return for the investment in the company. Due to the influence of ASI Ram Krishan, the complainant and Akshay Kumar son of Dharampal agreed to invest Rs.7000/- (\$ 100) in ID No. MGC 219773 and Rs.11,20,000/- (\$ 16000) in ID No. MGC 419288. Paramjit Kaur wife of ASI Ram Krishan also joined as third party with Akshay Kumar. Some amount was paid in the bank account provided by ASI Ram Krishan whereas the remaining amount was paid to him in cash. Thereafter, the complainant obtained three more IDs from ASI Ram Krishan bearing nos. MGC 259317 dated 02.01.2019, MGC 622919 and MGC 780304 dated 05.01.2019, in lieu of which, amount of Rs.3,15,000/- was paid to ASI Ram Krishan. After some time, crypto currency Bitcoin was being credited in these accounts and third share of the amount was being credited in the account of Paramjit Kaur. However, after some months, the exchange stopped working and the accounts could not be opened on the website. In this regard, the complainant asked ASI Ram Krishan, who replied that Shama Shubham and his wife Madhu Kohli are owners of the company. On asking, Shama Shubham told the complainant that the exchange is being upgraded and after completion of this work, the complainant will able to access his account. However, the exchange did not work and the Bitcoin were also not available in the accounts. On this, the complainant built pressure upon ASI Ram Krishan and Shama Shubham, who promised to return the money, but they did not do so. In this way, the aforesaid

persons have played fraud with the complainant party and misappropriated total amount of Rs.10,58,666/-.

Learned counsel contends that no amount was transferred in the account of the petitioners and there is no proof of any transaction. It is a case of false implication. A complaint was filed by petitioner Ram Kishan to the SSP Pathankot on 03.08.2022 that the complainant has taken money from him.

Status report by way of affidavit of Mandeep Singh, PPS, Assistant Commissioner of Police, Ludhiana dated 21.02.2023 has been filed by learned State counsel and opposes the bail on the ground that there is one more FIR registered against the petitioner Ram Kishan, who is working as ASI in the Punjab Police and is inducing people to invest in the Crypto Currency through the company-Cryptobulls. He has also produced the photographs showing that he is doing marketing of the said Crypto Currency alluring people to invest in Crypto Currencies through companies like Gulf Coin etc. The other FIR under Section 420 is registered against the petitioner. Custodial interrogation of the petitioner is required.

Heard the learned State counsel and perused the file.

Hon'ble The Supreme Court in '**Jai Parkash Singh vs. State of Bihar**' reported as (2012) 4 SCC 379 has held as under:

“6. We have considered the rival submissions made by the learned counsel appearing for the parties and perused the record. 7. The provisions of Section 438 Cr.P.C. lay down guidelines for considering the anticipatory bail application, which read as under:

“438. Direction for grant of bail to person apprehending arrest.-(1) Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail; and that court may, after taking into consideration, inter alia, the following

factors, namely:- (i) The nature and gravity of the accusation; (ii) The antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a court in respect of any cognizable offence; (iii) the possibility of the applicant to flee from justice; and (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

8. In view of the above, it is mandatory on the part of the court to ensure the compliance of the pre-requisite conditions for grant of anticipatory bail including the nature and gravity of the accusation.

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13. There is no substantial difference between Sections 438 and 439 Cr.P.C. so far as appreciation of the case as to whether or not a bail is to be granted, is concerned. However, neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail.

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21. In the facts and circumstances of this case, we are of the considered opinion that it was not a fit case for grant of anticipatory bail. The High Court ought to have exercised its extraordinary jurisdiction following the parameters laid down by this Court in above referred to judicial pronouncements, considering the nature and gravity of the offence and as the FIR had been lodged spontaneously, its veracity is reliable. The High Court has very lightly brushed aside the fact that FIR had been lodged spontaneously and further did not record any reason as how the pre-requisite conditions incorporated in the statutory provision itself stood fulfilled. Nor did the court consider as to whether custodial interrogation was required.”

The allegations in the present case are extremely serious that have been made against Ram Kishan, who while working as ASI in the police department along with his wife namely Paramjit Kaur, are alleged to be doing the work for an international company 'Crypto Bulls' who runs its own exchange through website and deals with crypto currency (Gulf Coin Gold) and have been luring innocent people to join the scheme and they are issued special ID after

opening their accounts through the said website. On the allurements of petitioners, the complainant invested Rs.11.20 lakh in ID No.MGC-419288 and Rs.7,000/- in ID No.MGC-219773. However, the exchange was closed and the accounts could not be found while searching the website. The aforesaid petitioners have allegedly in connivance with each other committed fraud through cyber crime and cheated the innocent people.

Keeping in view the facts and circumstances of the case, the judgment referred to hereinabove, antecedents, the manner of commission of crime, gravity of offence, the modus operandi of the petitioner still to be ascertained, his custodial interrogation being required as investigation is going on, this Court is thus not inclined to grant the concession of anticipatory bail to the petitioner(s). Therefore the present petitions stand dismissed.

Needless to say that observations made hereinabove are meant only for the purpose of deciding the present petitions and in no manner be construed as an expression of opinion on the merits of the case.

(AMAN CHAUDHARY)
JUDGE

February 21, 2023

M.Kamra

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