

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 26.05.2023

1. CRM-M-1054 of 2023

Sant Lal alias Sonu	Versus	...Petitioner
State of Haryana		...Respondent

2. CRM-M-4715 of 2023

Munesh Kumari	Versus	...Petitioner
State of Haryana		...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Aditya Sanghi, Advocate for the petitioner
in CRM-M-1054 of 2023.

Mr. Abhimanyu Singh, Advocate for the petitioner
in CRM-M-4715 of 2023.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

This order shall dispose of two petitions as referred above, as petitioners in both the cases are seeking anticipatory bail under Section 438 Cr.P.C in a case arising out of FIR No.344 dated 27.12.2022 registered under Sections 406, 419 and 420/34 IPC at Police Station Dadri City, Charkhi Dadri, District Charkhi Dadri (Haryana).

2. FIR was lodged on the complaint of Smt. Bhateri, as per which, the two petitioners Sant Lal and Munesh Kumari, by telling their names as Sandeep son of Samunder; and Anita wife of Manjit Kumar, respectively, duped her (Bhateri) of an amount of ₹1,50,000/- on

02.10.2022 on the pretext of arranging a job as Computer Operator for her daughter Kusum in Haryana Police. It was disclosed by both the accused (petitioners) that they were working in the Haryana Police. So much so, the writing dated 02.10.2022 was also given by them regarding an amount of ₹1,30,000/- stating therein that this amount was in lieu of some work and balance payment was to be made after placement and that in case job is not done then amount shall be returned. Petitioner Sant Lal appended his signatures on this writing impersonating as Sandeep, whereas petitioner Munesh Kumari appended her signatures by impersonating as Anita. On 03.10.2022, another amount of ₹20,000/- was taken by Munesh Kumari, impersonating as Anita. Complainant gave specific details of the mobile phones of both the petitioners, on which she was getting calls from two petitioners. It is alleged that neither any job was provided to her daughter nor the money was returned.

3. It is submitted on behalf of petitioner Sant Lal that Police wanted to arrest him without verifying the authenticity of the contents of the FIR and without following the guidelines provided in ***Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273***. He submitted further that petitioner and co-accused Munesh Kumari were living in live in relationship and that there was no dispute amongst them. It is the co-accused, who demanded huge money from the petitioner and threatened to file case against him and destroy his professional career and ultimately she filed an FIR No.107 dated 10.12.2022 under Section 376(2)(n) and Section 506 IPC at Police Station Women Charkhi Dadri. It is alleged by petitioner Sant Lal that complaint has been lodged by Bhateri in collusion

with the co-accused to extort money and that he was ready to join the investigation.

4. On behalf of petitioner Munesh Kumari, it is submitted that she has been roped in the present FIR by complainant Bhateri in collusion with co-accused Sant Lal, who allegedly cheated the complainant of ₹1.5 lacs on the pretext of providing job and that she (petitioner) Munesh Kumari, had already lodged FIR under Section 376(2)(n) against the co-accused Sant Lal, being herself the victim. This petitioner also stated that she was ready to join the investigation and so she be allowed anticipatory bail.

5. In the reply filed on behalf of the respondent- State in CRM-M-1054 of 2023, it is submitted that during investigation, complainant produced the written undertaking, which was given by the two petitioners for providing the job and the receipt of money. She also submitted that source of money arranged and paid to the petitioners. The call detail records of the petitioners and the complainant were obtained and on analysis, it was established that they were in constant touch with the complainant. It was further found during investigation that petitioners had taken money not only from complainant Bhateri but also from others, namely, Satish son of Sanjay; and Shiv Kumar son of Gulab Singh and cheated them.

6. In the reply filed on behalf of respondent-State in CRM-M-4715 of 2023, it is also stated that petitioner Sant Lal was earlier working as a Home Guard in Haryana Police. Somehow, he arranged ID Card in the name of Lady Head Constable Anita and by using that ID Card,

petitioner Munesh Kumari impersonated herself as Lady Head Constable Anita.

7. During proceedings of these petitions, the two petitioners were directed to join the investigation. Although as per the reply submitted by the Police, both of them have joined the investigation but have not co-operated in the same nor got effected any recovery of the amount, which they took from various persons in lieu of providing jobs.

8. Learned counsel for the petitioners has referred to ***Bimla Tiwari Vs. State of Bihar and others, Law Finder Doc Id #2110551***, in order to contend that process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail and that question as to whether pre-arrest bail, or for that matter regular bail, is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Learned counsel contends that since the petitioners have joined the investigation, therefore, the interim relief earlier granted to them should be made absolute, as the bail cannot be declined only for effecting the recovery of money, which is essentially within the realm of civil proceedings. In addition, learned counsel for the petitioner Sant Lal also submitted that the said petitioner has already handed over an amount of ₹40,000/- to the Investigating Officer of the case.

9. Replying to the afore-said contentions, learned State Counsel submits that though non-recovery of money cannot be a sole ground to decline the bail as per the authority cited by counsel for the petitioners

but the bail is to be considered with reference to the material on record and the parameters governing bail consideration. Learned State Counsel submits that considering the facts and circumstances of the case and the investigation conducted so far, none of the petitioners deserved to be allowed bail.

10. I have considered submissions of both the sides and have appraised the record.

11. In order to exercise the discretion for grant of anticipatory bail, the Court is required to examine the available evidence and determine as to whether there is a prima-facie case against the applicant and if the Court finds that there is no such prima-facie case, then it may grant the anticipatory bail. Besides, Court is required to see that petitioner co-operates in the investigation. Overall, Court is required to evaluate balance of justice and consider specific role of the applicant in the offence and the likelihood of the applicant fleeing from justice besides applicant's criminal history and other relevant factors.

12. In this case, the allegations are that petitioner Sant Lal impersonated as Sandeep and petitioner Munesh Kumari impersonated as Anita and both of them cheated the complainant of ₹1.5 lacs on the pretext of providing job for her daughter. They even gave a writing in this regard to win the confidence of the complainant. The two petitioners want to take benefit of their inter-se dispute, inasmuch as petitioner Munesh Kumari has got registered FIR No.107 dated 10.12.2022 under Section 376(2)(n) and Section 506 IPC at Police Station Women Charkhi Dadri against co-accused. That FIR was lodged after the complainant of

this case had already been duped and, therefore, the two petitioners cannot be given any benefit of the afore-said FIR under Section 376(2)(n) IPC, in which petitioner Sant Lal alleges to have been falsely implicated whereas petitioner – Munesh Kumari alleges to be the victim.

13. Having regard to the prima-facie allegations against the two petitioners and the material collected so far against them during investigation, but without commenting anything further on the merits of the case, this Court does not find it to be an appropriate case so as to grant anticipatory bail to any of the petitioners. As such, both the petitions are hereby rejected.

May 26, 2023
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(DEEPAK GUPTA)
JUDGE

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