

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-1890-2023 (O&M)
Date of decision: 29.03.2023

PARAMJIT SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. S.S. Rangi and Mr. J.S. Sekhon, Advocates
for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

Mr. Gaurav Jain, Advocate
for respondent No.2, alongwith the complainant

AMAN CHAUDHARY. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.116 dated 27.12.2022, under Sections 406 and 420 of the Indian Penal Code, 1860 registered at Police Station Sanaur, District Patiala.

Brief facts of the case as emerge from the FIR are that, Paramjit Singh claiming himself to be having links with high ups offered Sukhwinder Singh s/o Karnail Singh to get him appointed as a Mason in the government department, for which he along with his wife demanded Rs. 15.00 Lac. The complainant agreed to pay only Rs. 11,50000/-, out of which Rs.5,50,000/- were paid on 29.04.2019 to the petitioner in presence of family members of the complainant and Rs. 6 Lac on 17.06.2019 at the shop of petitioner in the

presence of Baljit Singh, brother-in-law of the complainant. The said amount was paid by the complainant after taking it from his father by selling his ancestral land on 28.01.2019 and withdrawing the said amount from the Bank. Furthermore, photograph and signatures of the complainant had also been taken on some forms by the petitioner for the purpose. However, the petitioner neither got the complainant a government job nor returned the amount. Kuldeep Singh, a friend of the complainant had recorded a video of the discussion between the petitioner and the complainant wherein the petitioner admitting to return the amount taken by him. Out of the said amount, only Rs.1 lac was returned, when he was unable to get the government job to the complainant.

Learned counsel contended that the petitioner was only instrumental in facilitating a transaction whereby an amount of Rs.11,50,000/- was paid on interest basis by the complainant to one Gursewak Singh. Thereafter cheques were also issued by Gursewak Singh in favour of the complainant and one stamp paper was taken from the petitioner, as a guarantor. In addition, an amount of Rs.1 lakh was loaned by the petitioner to the complainant prior to the lodging of the FIR and when the amount was demanded back by him, the complainant falsely implicated him in the present case. He had threatened the petitioner by coming to his house and interfered in his peaceful possession. The version of the complainant has also been changing from time to time with regard to the amount entrusted to the petitioner.

Learned State counsel assisted by learned counsel for the complainant submitted that as a matter of fact the amount in question was

paid by the complainant to the petitioner on an assurance to get him a job as Mason in PWD Department, Punjab, as he was well connected. A video footage of the month of May 2022 is also a part of the preliminary inquiry conducted by the police, wherein the petitioner has admitted having received the amount in question, from the complainant, which he would return in installments,. By filing of the complaint on 30.08.2022 only a defence has been created by the petitioner, though the dispute was already going on between the parties, for which the complaint was lodged on 10.09.2022 and subsequently the FIR was registered.

Learned counsel for the complainant additionally submits that an amount of Rs.1 lakh, as admitted in the FIR, was returned to the complainant by the petitioner, out of the amount of Rs.11,50,000/- already paid by the complainant by selling his ancestral land on 28.01.2019 and withdrawing the amount from the bank, on assurance of the petitioner to get him a government job in the month of November, 2021.

Heard.

It is apposite to make a reference to the judgment of Hon'ble The Supreme Court in the case of '**Jai Parkash Singh vs. State of Bihar**' reported as (2012) 4 SCC 379 wherein it was held thus:

“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.”

There are serious allegations levelled against the petitioner of

luring, cheating and duping the complainant of huge amount, on the false

pretext of getting him a government job, by allegedly stating that he had some links with high ups. The complainant is said to have paid the said amount after selling his ancestral land. These facts are found to have been admitted by the petitioner, as revealed during the preliminary investigation conducted by the police.

The parties, living in the same vicinity, the possibility of the petitioner threatening the complainant and influencing the witnesses cannot be ruled out and recovery of amount is yet to be effected, for which the custodial interrogation is required for thorough and effective investigation of the crime committed.

Considering the peculiar facts and circumstances as discussed above, this Court finds no ground to grant anticipatory bail to the petitioner.

Accordingly, present petition is dismissed.

(AMAN CHAUDHARY)
JUDGE

March 29, 2023
S.Sharma(syr)

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