

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

104

CRM-M-2357-2023
Date of decision : 17.01.2023

Subhash

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.384 dated 18.08.2022 registered under Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860 at Police Station Kheripul, District Faridabad.

Briefly stated the facts relevant for disposal of the present petition are that on 18.08.2022, S.I. Jamil Khan received a secret information that one Mohd. Mehndi Hassan resident of Bangladesh, currently living near liquor vend, Bhatola Road, Bihari Market, is having fake Indian Aadhar Card and if raid is conducted he can be apprehended. On the said information, the police apprehended Mohd. Mehndi Hassan. He shown his national I.D. Card issued by the Government of Bangladesh. On search, 02 Indian Aadhar Cards, one in the name of Mehndi Rai and second in the name of Hassan Mohd.

Mehndi both of the same address, were recovered from the purse of the accused and he failed to give satisfactory reply regarding Indian Aadhar Cards. During investigation, accused made disclosure statement that he had got prepared fake Aadhar Cards and PAN Card from one Subhash (the petitioner) in a consideration of Rs.15,000/-.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case on the basis of disclosure statement of co-accused Mohd. Mehndi Hassan which has no relevance in eye of law. In his first disclosure statement co-accused stated that he got the fake Aadhar Cards and Pan Card from some unknown Cafe at Noida (UP), in his second disclosure statement co-accused stated that he got the same from his known. Thereafter, in his third disclosure statement, co-accused named the petitioner from whom he got the fake Aadhar Cards and Pan Card. The petitioner has nothing to do with the co-accused. The petitioner is not involved in any other case. Co-accused Mohd. Mehndi Hassan has already been granted bail by learned Judicial Magistrate First Class, Faridabad. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Munish Sharma, Asstt. A.G., Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and submits that the petitioner has prepared fake Aadhar Cards and Pan card for co-accused Mohd. Mehndi Hassan. For thorough investigation of the case and for recovery of laptop and other

instruments which were used by the petitioner for preparation of fake identity cards, his custodial interrogation is required. Therefore, the present petition may be dismissed.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. The petitioner has played with national security by preparing forged Indian Aadhar Card and PAN card of a Bangladeshi national. Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of instruments used by the petitioner for preparation of fake identity cards, the custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“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 ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

17.01.2023

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No