

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

CRM-M-4408-2023

Date of Decision:-20.03.2023

Pardeep Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Mandeep Singh Dhaliwal, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

Mr. Shashank Vardaan Sharma, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.94 dated 19.11.2022 under Sections 420, 465, 467, 468 added later on Section 471 IPC registered at Police Station Jodhan, District Ludhiana (Rural), Punjab.

2. The brief facts of the case are that one Raj Gurmel Kaur wife of Kulwant Singh gave a complaint to the police stating therein that she had three brothers, namely, Sher Singh, Mukhtiar Singh, Gurmel Singh. Her brother Gurmel Singh was married to one Jaswinder Kaur. Both of them had died issueless. Her sister-in-law Jaswinder Kaur (since deceased) had a brother by the name of Sarjinder Singh who had two sons namely Pawandeep Singh and Pardeep Singh (petitioner). Pardeep Singh had forged his birth certificate and instead of the name of Sarjinder Singh is being recorded as his father, his birth certificate stated that he was the son of

Gurmel Singh. Using the said birth certificate he was trying to grab the land of her (complainant's) brother Gurmel Singh and had started forcibly residing in his (Gurmel Singh's) house along with his family. In fact his father was Sarjinder Singh and he had fabricated all the documents to show that his father's name was Gurmel Singh who was actually his *Fufar* being the husband of his aunt Jaswinder Kaur. The said Jaswinder Kaur had also levelled allegations against her nephew Pardeep Singh (petitioner) and had moved various applications to the police in that regard. Appropriate action was sought against the petitioner for having forged documents for the purpose of grabbing the land of Gurmel Singh, her (complainant's) real brother.

Based on the said application, an enquiry was conducted which led to the registration of the present FIR.

3. The Counsel for the petitioner contends that the allegations are absolutely baseless. In fact the petitioner had been adopted and brought up by Gurmel Singh, the brother of the complainant. Reference is made to a school certificate in this regard (Annexure P-2). He has also referred to the Aadhaar Card and the ration card to substantiate his argument that he was the adopted son of late Gurmel Singh and late Jaswinder Kaur, who were otherwise his *Fufar and Bua*. A Will had also been executed in his favour, a copy of which is attached as Annexure P-6. The complainant was a chronic litigant and not on visiting terms with her two other brothers with whom she was fighting civil litigation. Since the petitioner was the only heir of the late Gurmel Singh and late Jaswinder Kaur, he was entitled to the grant of anticipatory bail.

4. The Counsel for the State on the other hand contends that the allegations levelled by the complainant are serious. The petitioner had

fabricated various documents including his birth certificate which was registered only on 22.03.2016 in which he mentioned his parents as Gurmel Singh and Jaswinder Kaur whereas his actual parents were Sarjinder Singh and Manjit Kaur. The petitioner had never been adopted but was only residing in the house of Gurmel Singh and Jaswinder Kaur. He had also got prepared a passport in which he had shown his parents as Gurmel Singh and Jaswinder Kaur and thus wanted to take possession of their property. In addition, it is his contention that the petitioner calling himself as the son of Sarjinder Singh has sold a property but in the present case he claims himself to be the son of Gurmel Singh and has forged documents like birth certificate, School Certificate etc. Therefore, the custodial interrogation of the petitioner is required not only as the offences are serious in nature but also because the investigation has to be taken to its logical conclusion.

5. The Counsel for the complainant has reiterated the arguments of the learned State Counsel. In addition he contends that the complainant herself had given a complaint dated 27.04.2022 to the SSP, Chandigarh. As per the said complaint she had been threatened on 13.03.2023 on which date mediation proceedings were pending before this Court. He thus contends that the conduct of the petitioner even after his arrest had been stayed in the present case on 15.02.2023 does not entitle him to the grant of anticipatory bail.

6. I have heard the learned counsel for the parties.

7. The allegations against the petitioner are indeed serious. He is the biological son of Sarjinder Singh and Manjit Kaur. Sarjinder Singh is the real brother of Jaswinder Kaur who was married to Gurmel Singh. The petitioner has fabricated various documents to show that he was adopted by late Gurmel Singh and Jaswinder Kaur who are his *Fufar and Bhua*.

However, the investigation has revealed that various forged documents such as birth certificate, School certificate etc., have been prepared much later. The petitioner has also sold a property claiming to be the son of Sarjinder Singh his biological father whereas he is claiming the property of Gurmel Singh stating that the said Gurmel Singh and Jaswinder Kaur had adopted him. He is blowing hot and cold in the same breath and taking contrary positions.

8. The Hon'ble Supreme Court in the case of “***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***”, held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“ It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common

*argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. **There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail”.***

9. In the instant case, not only are the allegations serious but the custodial interrogation of the petitioner is certainly necessary to take the investigation to its logical conclusion. Further the conduct of the petitioner in threatening the complainant cannot be condoned.
10. In view of the above, I find no merit in the present petition and therefore the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

March 20, 2023
Vinay

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