

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

CRM-M-5009-2023(O&M)

Date of Decision:-12.05.2023

Jagdish Chand.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. R.S. Malik, Advocate for the Petitioner.

Mr. Neeraj Poswal, AAG Haryana.

Mr. J.S. Kang, Advocate for

Mr. K.P.S. Virk, Advocate for the complainant.

JASJIT SINGH BEDI, J.(ORAL)

CRM-20226-2023

The prayer in the application under Section 482 Cr.PC is for preponement of the date of hearing from 27.07.2023 and for vacating the interim stay granted.

Heard.

For the reasons stated in the application, the same is partially allowed and date of hearing in the main petition is postponed from 27.07.2023 to today and is taken up for hearing today itself.

CRM-M-5009-2023

The Prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.16 dated 06.01.2023 under Sections 406, 420 IPC registered at Police Station Assandh, Karnal, District Karnal.

2. The brief facts the case are that one Jagdish Chand Ex-sarpanch son of Dalip Singh filed a complaint with the Superintendent of Police, Karnal stating that his son was in custody in District Jail Jind for having allegedly committed an offence under Section 302 IPC. One Jasmer Singh son of Bhag Chand contacted him (complainant) stating that he (Jasmer Singh) was a Superintendent in the High Court at Chandigarh and had good relations with the judges. He (Jasmer Singh) could get his (complainant's) son released on bail for an amount of Rs.8 lacs. Based on this assurance he (complainant) paid a sum of Rs.8 lacs through cheques/cash to Jagdish Chand (petitioner) who called himself as Reader to Jasmer Singh and also to Jasmer Singh. He (complainant) was assured that if the bail was not granted to his son within one week then accused would return the amount of Rs.8 lacs along with interest. As a guarantee Jasmer Singh had given different cheques from the YES Bank account of the petitioner. An affidavit had also been given to him (complainant). However, when his (complainant's) son was not granted bail, he demanded his money back. Then it was revealed that Jasmer Singh was not in the service of High Court and did not have any intimacy with the Judges. On demand of his money, he (complainant) was threatened by Jasmer Singh that his (Jasmer Singh's) brother was in the Haryana Police and could get him (complainant) implicated in a case if the demand of Rs.8 lacs was made. Legal action was sought.

Based on the aforementioned information, the present FIR came to be registered.

3. During the course of the pendency of the present petition, initially the arrest of the petitioner was stayed vide order dated 21.03.2023 on account of the fact that a compromise had been effected between the parties. However, thereafter, the petitioner has refused to adhere to the

terms of the compromise and therefore, the matter has come up for final adjudication today.

4. The counsel for the petitioner contends that the petitioner had no role to play in the entire occurrence. It is not the case of the complainant that the petitioner had sought money for getting regular bail for the son of the complainant. The allegations if at all were against Jasmer Singh (non petitioner). In fact the petitioner had availed of a loan from the complainant and false story has been coined up by the complainant leading to the registration of the present FIR. An affidavit in this regard is attached as Annexure P-1 to the petition. He, therefore, prays that no case for custodial interrogation is made out as the dispute was one of civil nature and, so the petitioner was entitled to the grant of anticipatory bail.

5. The Counsel for the State on the other hand contends that serious allegations have been levelled against the petitioner and his co-accused. Therefore, as the case had been prima facie established, the petitioner was not entitled to the grant of bail.

6. The Counsel for the complainant on the other hand contends that serious allegations have been levelled against the petitioner and his co-accused who had mislead the complainant by stating that they had good relations with High Court Judges and on that pretext a sum of Rs.8 lacs had been taken from the complainant for the grant of bail to the son of the complainant. Even pursuant to the filing of the instant petition, the complainant was ready and willing to effect a settlement as he was an old man and had lost a sum of Rs.8 lacs. Despite an opportunity being granted to the petitioner, he has refused to return the money. Therefore, as the case was prima facie established and the conduct of the petitioner even post the filing of the anticipatory bail petition was reprehensible, no case for the

grant of anticipatory bail is made out and the present petition ought to be dismissed.

7. I have heard counsel for both the parties at length.

8. The Hon'ble Supreme Court in 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 a perusal of the FIR would reveal that the offence is prima facie established against the petitioner and his co-accused. The nature of the allegations levelled against the accused are extremely grave. Jasmer Singh (non petitioner) in connivance with the petitioner has cheated the complainant on the pretext of his proximity with the Judges of this Court and in furtherance of the same a sum of Rs.8 lacs was deposited in the account of the petitioner. Therefore, as the offence is *prima facie* established and the nature of the allegations are extremely grave, the petitioner is certainly not entitled to the concession of anticipatory bail.

10. In view of the above, I find no merit in the present petition and the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

May 12, 2023
Vinay

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