

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(105)

CRM-M-8706-2023

Date of Decision: 17.02.2023

Nishan Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. M.K. Singla, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 438 Cr.P.C seeking the benefit of anticipatory bail to the petitioner in case FIR No.144 dated 7.12.2022 under sections 419, 420, 465, 467, 468, 471, 120-B I.P.C, registered at Police Station, Dirba, District Sangrur.

As per factual matrix, the FIR in question was registered on the statement of one Arjan Dass, wherein it was alleged that he was an agriculturist by profession and wanted to purchase land in Punjab. For the same his co-villager Rajender Singh introduced him to one Amrik Singh. Then he along with Rajender Singh, Amrik Singh and both his sons went to see land at village Janal where Ranjodh Singh son of Surjit Singh and Dalvir Singh met them and showed them the land and demanded the advance money. Ranjodh Singh introduced himself to be the grandson of the real owners, who had come from England for one month. Then on the next day they went to the Haveli Dhaba where the land owners Harmeet Singh, Chatar Singh, Ranjodh Singh, Dalvir Singh and one more unknown person, who told his name as Nishan Singh (present petitioner) met them.

They entered into an agreement to sell of the land measuring 82 kanal 13 marla for a consideration of Rs.23,80,000/- and for the another land measuring 18 kanals for a consideration of Rs.21,60,000/-. The complainant paid an amount of Rs.10 lakh in cash and one cheque no.479158 dated 1.11.2022 of Rs.25 lakh of Punjab National Bank was received by Harmit Singh and another cheque no.479159 dated 1.11.2022 of Rs.25 lakh was received by Chatar Singh. On 2.11.2022 Amrik Singh dealer told the complainant that they had been cheated as the actual owners of the land are in England and thus the complainant has been cheated by preparing a duplicate Aadhar Cards and by producing duplicate persons impersonating as the real owners of the land. On further inquiry they became fully sure that Ranjodh Singh, Dalvir Singh and Nishan Singh had committed cheating with them for Rs.10 lakh by producing Harmeet Singh and Chatar Singh as the owners of the land. A request was made to take legal action against the culprits.

Apprehending the arrest, petitioner approached the court of learned Addl. Sessions Judge, Sangrur for grant of bail, however, after hearing the parties, the same was declined vide order dated 24.1.2023. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in this case. It is submitted that from the allegations made in the FIR it is apparent that the allegations of cheating and impersonation are against Ranjodh Singh and Dalvir Singh, who received the advance money of Rs.10 lakh from the complainant by impersonating as the real owners of the land. Counsel submits that petitioner is running a transport business at Rajpura and he met Ranjodh

Singh in relation to his business only, otherwise the petitioner has no concern with Ranjodh Singh. It is submitted that petitioner has no criminal antecedents. Counsel has relied upon the judicial precedents in case of ***Teesta Atul Setalvad and another Vs. State of Gujarat, 2015(2) RCR (Criminal) 349*** and ***Manjit Kaur Vs. State of Punjab (CRM-M-34789-2020 decided on 30.10.2020)*** and has submitted that the case is purely of civil nature. He submits that in the overall facts and circumstances of the case petitioner deserves to be granted the benefit of anticipatory bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner and the investigation is under progress. It is submitted that if the petitioner is granted bail at this stage, the same may scuttle the ongoing investigation.

I have heard learned counsel for the parties at length and have gone through the records carefully.

From the allegations made in the FIR, it is apparent that there are specific allegations made by the complainant of having been cheated by the petitioner conspiring with the co-accused by impersonating them as the owners of land, whereas real owners of the land are residing in U.K. The allegations made against the petitioner are specific wherein it has been alleged that he introduced the co-accused namely Ranjodh Singh and Dalvir Singh as the owners of the land of which they were not the real owners. The complainant made the payment in cash as well as through cheques to the accused at the time of entering into agreement to sell. The investigation in this case is under progress.

Hon'ble the Supreme Court in *State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187* has 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 ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.”

The Hon'ble Supreme Court, in *Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632* has held as under:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that

*anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in **State v. Captain Jagjit Singh (1962) 3 SCR 622**, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.*

In the above said case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual.

The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence,

chances of accused tampering with the evidence and probabilities of fleeing

from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour.

With utmost humility, there is no dispute regarding the judicial precedents relied upon by counsel for the petitioner, however, the facts and circumstances of this case are distinguishable from them.

Resultantly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

17.02.2023

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No