

CRM-M-9113 of 2023 (O&M)

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

CRM-M-9113 of 2023 (O&M)

Date of decision: 21.02.2023

Kapil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Saurabh Dalal, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.228 dated 26.07.2022 under Sections 420, 406, 294, 506, 419, 467, 468, 471, 120-B IPC, registered at Police Station Linepar Bahadurgarh, District Jhajjar.

Present FIR was registered on the allegations that complainant was known to petitioner-Kapil son of Baljeet, resident of village Bamnoli, District Jhajjar. Petitioner informed the complainant that his brother namely Sonu used to arrange contractual job in Railway Department GAD Gaziabad, Uttar Pradesh. Upon this, the complainant and his friend Saurabh went at the house of Sonu at Sector-9, Bahadurgarh. Sonu demanded consideration of Rs.1,40,000/- for arranging job to one candidate. He also stated that he could also arrange

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job to any other person known to the complainant. Petitioner and her mother Sheela Devi assured to get the job arranged. Upon that, amount of Rs.5,85,000/- was paid to Sonu by complainant and his known persons namely Ms. Vaishali, Naveen, Ravi Dalal and Lalit. The complainant and above named persons handed over their documents to Pawan on the asking of Sonu. As per the instruction of Sonu, the complainant and others went in the company for interview with one Nitesh. Sonu told that supervisor namely Sandeep would get work of job executed and Sonu thereafter handed over a joining list to the complainant and his companions. As per list, they were asked to join the job on 28.11.2021 but when the complainant and others went to the company on 25.11.2021 and met supervisor Sanjeev, he pretended by citing engagement in other works on that day and asked to deliver the papers with the assurance that their work would be done. Ultimately, the complainant and his companions inquired from the company and came to know that no joining letter/list has ever been issued by the authorities of that company. The complainant and others demanded back their money, whereupon, they were given filthy abuses and were threatened to be executed, if amount demanded again.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He further submits that petitioner is not the beneficiary in any manner. He is the brother of main accused-Sonu and nothing is to be recovered from him. Learned counsel further submits that petitioner is ready and willing to join the investigation.

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Per contra, learned State counsel, who appears on receipt of advance copy of the paperbook, opposes the prayer for grant of anticipatory bail to the petitioner on the ground that he has been specifically named by the complainant. Therefore, custodial interrogation of the petitioner is required.

I have heard learned counsel for the parties and perused the record.

Although amount of Rs.5.35 lakh has not been deposited in the bank account of the petitioner, as per allegations it is the petitioner who introduced the complainant party to his brother Sonu, who is the main accused in committing cheating and fraud with the complainant party. But from transaction of money from bank account of co-accused Sonu to the bank account of the petitioner thrice it appears that petitioner was actively involved in the crime. As per record it is reflected that the petitioner in connivance with his brother Sonu has prepared forged joining list/letter.

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner that he introduced the complainant party to co-accused Sonu, who deprived of

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the complainant party of their hard-earned money. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of his freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

Reliance can be placed upon the Hon’ble Supreme Court dictum passed in *Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (CrL.) 598* and *Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364* whereby the Hon’ble Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

Keeping in view the facts and circumstances of the case, role attributed to the petitioner, gravity of offence and to unearth the *modus operandi* used to run the racket in cheating the gullible people and the persons involved in the said racket, custodial interrogation of the petitioner is necessary. Therefore, he does not deserve the concession of anticipatory bail.

The present petition is accordingly dismissed.

However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

21.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No