

CRM-M-12630-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12630-2023 (O & M)

Date of decision:10.04.2023

Mehtab Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mitul Singh Rana, Advocate,
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.24 dated 15.02.2023 under Section 408 IPC registered at Police Station Dasuya, Hoshiarpur.

2. The present FIR came to be registered at the instance of Rajinder Singh who stated that he had been posted as Area Manager in Parsicha & Co. Octave-Puma Showroom and his company had 12/13 branches in Punjab. In Dasuya, their branch was located at Dasuya to Pathankot Main G.T. Road. Mehtab Singh (petitioner) had been kept as a Manager by the Company for the maintenance of the branch. He (complainant) had been asked by the Company owner of the said showroom to conduct an audit. During the audit, it was found that 74 pieces of Puma brand clothes and shoes, 43 pieces of Flying Machine brand clothes, 68 pieces of Levis brand clothes and 120 pieces of Octave brand clothes were

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found to be less. The approximate value of these goods was Rs.10 lacs. The petitioner was asked regarding the short-fall in the goods and he did not give any reply. On 28.01.2023, he locked the showroom and took the keys with him. A complaint had been made in this regard on 29.01.2023. The petitioner had sought time from the owner of the Company at Amritsar to explain the short-fall. However, he did not meet the owner. Legal action was sought against the petitioner.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, he was working as an Assistant at a monthly salary of Rs.18,000/- and had never been appointed as a Manager. On 25.01.2023, he had caught an employee of the Store, namely, Raman Kumar, stealing a pair of shoes and had confronted him. A video recording of the incident was also shared with senior officials of the Company. However, no action was taken on his complaint. On the contrary, he has been implicated in the present FIR. He, therefore, contends that no case for custodial interrogation was made out and the petitioner was entitled to the grant of concession of anticipatory bail.

4. The learned State counsel while referring to the short reply filed by way of an affidavit of Balbir Singh, PPS, Deputy Superintendent of Police, Sub Division Dasuya, District Hoshiarpur dated 27.03.2023 contends that the petitioner was undoubtedly a Manager/Cashier as is evident from his employment details. Therefore, it cannot be pleaded by him that he was employed as an Assistant. The application allegedly made to the Punjab State Human Rights Commission is a defence being created by the petitioner as no such complaint/application has been made to the office of the Senior

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Incharge/Manager of the Store and during his tenure, the company had suffered a huge loss of Rs.10 lacs, the liability lies with the petition and in order to recover the goods/articles, the custodial interrogation of the petitioner is certainly necessary and therefore, he was not entitled to the grant of concession of anticipatory bail.

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

6. A perusal of the record would reveal that the petitioner is the Incharge/Manager of the Store in question. The defence set-up by the petitioner that one Raman Kumar had been caught stealing a pair of shoes and on a complaint being made by the petitioner, no action had been taken by the Company but he (petitioner) has been implicated seems to be an after-thought with a view to create some sort of defence. It would be relevant to mention here that while the petitioner is stated to have made a complaint to the Punjab State Human Rights Commission, no complaint regarding the conduct of Raman Kumar and/or other officials of the company has been submitted to the investigating agency.

7. Additionally, 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***

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interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail. ”

8. Keeping in mind the seriousness of the allegations and in order to effect the recovery of the goods, the value of which is approximately Rs.10 lacs, the petitioner is not entitled to the grant of anticipatory bail.
9. Therefore, I find no merit in the present petition and the same is dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 10, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No