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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 20.04.2023

Ashwani Paul

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Umesh Kumar Kanwar, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in FIR No.0002 dated 27.11.2020 under Sections 420, 467, 468 and 471 IPC registered at Police Station Punjab State Crime Police Station, SAS Nagar.

2. The brief facts of the case are that a complaint had been received in the office of the Bureau of Investigation, Punjab, to the effect that Kuljinder Singh, Baljinder Singh and others had filed a CWP-13159-2020 (O & M) titled as 'Kuljinder Singh and others Vs. State of Punjab and others' and CWP No.8552-2020 (O & M) titled as 'Baljinder Singh and others versus State of Punjab and others' before the Punjab and Haryana

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High Court in which they had disclosed about the irregularities done by the PSPCL at the time of recruitment of Assistant Linemen. The High Court had passed an order dated 27.10.2022 to the effect that since there were allegations of fake experience certificates, etc. being accepted by PSPCL, the DIG/IG, Crime was to file an affidavit narrating the investigation conducted and also to examine the role of the officials/officers of PSPCL in accepting the alleged fake experience certificates. On the basis of the order of the High Court, an investigation begun and the writ petitioners-Kuljinder Singh and Baljinder Singh were joined in the investigation. Baljinder Singh got recorded a statement to the effect that in the month of October, 2019, PSPCL had advertised posts for the recruitment of the Assistant Linemen and he had applied for the same. He had been called for counselling and had produced all his educational certificates. As per the advertisement, 10 experience certificates were required and on this count, many candidates had got recruited by furnishing fake experience certificates. There were irregularities in this recruitment due to which he (Baljinder Singh) alongwith 06 other candidates had filed CWP-8552 of 2020 before the High Court. Apart from this, 22 more candidates had filed CWP-13159-2020 and in these petitions, the PSPCL had filed their responses. He (Baljinder Singh) further stated that on 06.09.2020, they had filed an application in the High Court in which they had mentioned Baljinder Singh son of Jarnail Singh, Bahadur Singh Jabandha son of Gurdev Singh, Kamaldeep Singh son of

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Indraj Singh, Gurpreet Singh son of Darshan Singh, Palwinder Singh son of Malkit Singh and Malwinder Singh son of Sukhdarshan Singh having joined by producing fake experience certificates.

The PSPCL had also conducted an investigation of 04 candidates at their own level and it was found that Kamaldeep Singh and Malwinder Singh had produced fake certificates. Legal action was sought against the accused.

Thereafter, the writ petitioner Kuljinder Singh had joined investigation and got recorded his statement that in 2019, he had applied for the post of Assistant Lineman, had been called for counselling and had produced all the educational certificates. However, he had not been selected as he was not having any experience certificate. Thereafter, he had come to know that some candidates had produced fake certificates on account of which he alongwith 22 other candidates had filed writ petitions bearing CWP-13159 of 2020 and CWP-8552-2020.

During investigation, Vipin Kumar, Assistant Manager of PSPCL also joined investigation alongwith the record and got recorded his statement that for 3500 vacancies, 4756 candidates had applied online and the documents were checked by 11 committees and appointment letters were issued to 2393 candidates after consideration by a selection panel in which about 1684 candidates had obtained experience certificates. Thereafter, 29 writ petitioners had filed petitions before the High Court and on the basis of

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Linemen were verified from the firms and directors who had issued the same. It was found that two candidates, namely, Kamaldeep Singh son of Kartar Singh and Malwinder Singh son of Sukhdarshan Singh had furnished certificates which were forged.

On the basis of the above statements, the investigation of the present case was conducted and the instant FIR came to be registered against the accused.

3. Pursuant to the registration of the FIR and during the course of investigation, it was found that A Class Contractor, namely, Ashwani Paul (petitioner) had issued several experience certificates without any corresponding record with respect to the attendance/salary/EPF/ESI of the purported employees. Accordingly, he was nominated as an accused in the present case vide DDR No.13 dated 20.02.2023.

3. The learned counsel for the petitioner contends that the allegation against the petitioner is that he provided forged and fictitious experience certificates to the prospective candidates for applying to the post of Assistant Linemen. In fact, the non-maintenance of the attendance registers of various persons who had been issued experience certificates was a mistake on the part of the petitioner and would not amount to any ill intention. He contends that since the petitioner had been called by the investigating agency earlier, had joined investigation and had fully co-operated with the same, he was entitled to the grant of anticipatory bail.

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4. The learned counsel for the State, on the other hand, contends that the allegations against the petitioner are serious in nature. As many as 13 candidates had been issued experience certificates on the basis of which they had obtained employment which were subsequently found to be forged. It does not stand to reason that the petitioner had made a mistake in maintaining his Attendance Register with respect to all the prospective candidates. Merely because the petitioner has joined investigation at an earlier stage, did not entitle him to the grant of anticipatory bail, moreso when the case against the petitioner was prima facie established.

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

6. The Hon'ble Supreme Court in the case of '**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977**', 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

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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.”

7. In the instant case, the allegations against the petitioner are that he provided fake and fictitious experience certificates to various candidates in order to enable them to obtain employment as Assistant Linemen. The prima facie case against the petitioner is certainly established as per investigation conducted so far. Therefore, the serious nature of the allegations do not entitle him to the grant of anticipatory bail merely on account of the fact that no case for custodial interrogation was made out. In fact, by using such forged experience certificates to obtain Government employment, legitimate and eligible candidates are deprived of their right to seek employment. Therefore, this conduct on the part of the facilitators such as the petitioner as also the candidates cannot be condoned in any manner whatsoever.

8. In view of the aforementioned discussion, I find no merit in the present petition and the same is dismissed.

9. However, it is made clear that the observation in this order are only for the purposes of deciding this anticipatory bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

April 20, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No