

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(101)

(2023:PHHC:041608)
CRM-M-13785-2023
Date of Decision: 20.03.2023

Tegvir Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Inderjit Sharma, 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.0021 dated 5.3.2021 under sections 420, 465, 467, 468, 471 I.P.C, registered at Police Station, Adampur, District Jalandhar (Rural).

As per allegations made in the FIR, petitioner Tegvir Singh got issued Passport by sending the forged documents. It was alleged that after visiting U.K he got issued the Passport in the name of one Pakhar Singh.

On the basis of allegations made in the FIR the investigation commenced. Apprehending the arrest, petitioner approached the court of learned Addl. Sessions Judge, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 2.3.2023. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in this case. It is submitted that petitioner has not committed any forgery or cheating as alleged in the FIR.

He submits that the petitioner went to U.K in the year 2001 on Passport No. A-5407216 which was issued on 22.5.1998. As the Passport of the petitioner was lost in U.K, he obtained a new Passport by declaring the first passport as misplaced. He was issued new Passport No.E-3087822 issued on 25.7.2013 from CGI, Birmingham (U.K.). Counsel submits that thereafter petitioner came in contact with a Travel Agent who obtained Passport No.G-690392 issued on 9.11.2006 from the office of Regional Passport Office, Jalandhar and Passport No. F-8276966 issued on 16.3.2007 from CGI, Birmingham (U.K.) by showing the name of the petitioner as Pakhar Singh @ Bagga. It is submitted that at that time petitioner was staying in U.K and thus he has not committed any forgery or cheating. It is submitted that a false and frivolous FIR has been registered against the petitioner. It is submitted that petitioner had filed CWP-20295-2020 for the issuance of a writ directing the respondent passport authorities for releasing the passport of the petitioner. It is further submitted that provisions of Section 12 of Passport Act would be applicable and thus in the facts and circumstances of the case petitioner deserves to be granted benefit of anticipatory bail.

On the other hand, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner and if he 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 petitioner was issued a passport on which he travelled to U.K. Thereafter it

has come in the investigation that when the petitioner applied for correction of the name of his wife in the passport, it was found that Passport No. G-690392 dated 9.11.2006 was issued to Pakhar Singh son of Paramjit Singh on which his photo was affixed and on the basis of the same, Passport No. F-8276966 dated 16.3.2007 was issued from Birmingham (U.K) and in this regard Passport Office, Jalandhar ordered for not issuing any passport from 4.11.2015 to 3.11.2018 to Tegvir Singh. During investigation it was found that Pakhar Singh son of Paramjit Singh was not found to be resident of Mohalla Bagichi and at the time of applying for the passport of said Pakhar Singh, photo of Tegvir Singh was affixed and details were mentioned as Pakhar Singh son of Paramjit Singh.

Prima facie, there are allegations pertaining to filing fake documents by mentioning wrong details of one Pakhar Singh for obtaining passport. The case in hand needs a thorough investigation. Thus, granting anticipatory bail at this stage in all probabilities would hamper the course of a fair investigation.

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 disintering 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.

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

(RAJESH BHARDWAJ)
JUDGE

20.03.2023

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