

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

CRM-M-22607-2023

Date of Decision: 05.05.2023

Simranjeet Singh and another

..... Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mandeep Singh, Advocate, for the petitioners.
Mr. Sandeep Kumar, Deputy Advocate General, Punjab.
Mr. Saurabh Kaushik, Advocate, for the complainant.

Rajesh Bhardwaj, J.

The petitioners have approached this Court praying for grant of anticipatory bail to them in a case FIR No.39, dated 21.03.2023 registered under Sections 406, 420 and 120-B IPC and Section 13 of Punjab Travel Professionals Regulations Act, 2012, at Police Station Kotwali, Nabha, District Patiala.

As per facts of the case, the FIR was registered on the statement of complainant, namely, Deepak Kamra son of Bisandas Singh. It was alleged that the complainant is the owner of Deepak Hotel and Restaurant. One Amandeep Singh used to do the work of making combine for a long time in the name of M/s Carbro Agro Tech and had relationship with the complainant. Younger son of the complainant, namely, Sahil Kamra aged about 29/30 years had been working with him. Amandeep Singh came to his hotel about 7 months ago with his brother Simran Singh and father Surinder Singh i.e. the petitioners, who told the complainant that they also do the work of sending the children to foreign countries and settled many children in Canada after obtaining work permit. They also advised the complainant

to send his son Sahil to Canada by providing a work permit and asked for a sum of Rs.7 lacs for the same. The complainant made a payment of Rs.4,25,000/- to Amandeep Singh, who gave him receipts as well. Amandeep Singh gave the complainant post dated cheques as security in case work is not done, the money would be refunded. However, despite his repeated request neither the work was done nor money was refunded. The complainant presented the cheques issued by Amandeep Singh before the Union Bank of India, but on presentation of the same, the same were bounced. Request was made to take legal action against the accused. Apprehending arrest, the petitioners approached the Court of learned Additional Sessions Judge, Patiala praying for grant of anticipatory bail, however, after hearing both the sides, the learned Court declined the same vide order dated 20.04.2023. Aggrieved by the same, the petitioners have approached this Court by way of filing the present petition for grant of anticipatory bail.

It has been vehemently contended by learned counsel for the petitioners that the petitioners have been falsely implicated in this case. He has submitted that the complainant is running a Dhaba by the name of Deepak Dhaba. He submits that the cheques were given by Amanpreet Singh as expenses towards the food served to his customers and hence there was no transaction of money as alleged in the complaint against the petitioners. He submits that totally vague and obnoxious allegations are levelled by the complainant against the petitioners. He further submits that there are no allegations regarding the petitioners taking money from the complainant. He submits that from the reading of the allegations, no case for custodial interrogation of the petitioners is made out and thus, they

deserves to be granted anticipatory bail.

Learned State counsel on instructions has submitted before this Court in all there are three accused in this case and no one is arrested till date. He has submitted that the case is under investigation. He further submits that each petitioner is facing prosecution in four other cases. He submits that both of them are habitual offenders. He also submits that there are specific allegations against the petitioners for having conspired with the co-accused and thus duping the complainant of heavy amount. It is submitted that grant of bail to the petitioners would seriously hamper the investigation and thus, he prays for dismissal of the present petition.

Learned counsel for the complainant has opposed the contentions raised by learned counsel for the petitioners and also prayed for dismissal of the present petition.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that there are specific allegations against the petitioner of conspiring with co-accused and duping the complainant for Rs.4,25,000/-, which was paid to the co-accused. As per allegations both the petitioners met the complainant and allured him to send his son abroad as they have already sent many other persons on work permit to the foreign countries. On their assurance, the complainant paid money to the co-accused, however, neither his son was sent to foreign country nor money was refunded, rather cheques given by co-accused as security also got bounced on its presentation before the Bank concerned. As submitted before this Court both the petitioners are facing prosecution in four other cases of the similar nature and thus by their antecedents, they are palpably habitual

offenders. Their custodial interrogation is necessary to reveal the truth.

For the consideration of anticipatory bail, this Court is to see whether any *prima facie* case is made out against the petitioners or not. At this stage, the case is under investigation and the co-accused has still not been arrested.

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](#) if 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 disintering offences would not conduct themselves as offenders.”

The Hon'ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, 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 petitioners do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

05.05.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No