

212A IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25857-2023
Date of decision :29.11.2023

BALJEET SINGH & ANOTHER

... Petitioners

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arjunveer Sharma, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

Mr. Sukhjit Singh, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.28 dated 10.03.2023 (Annexure P-1) registered under Sections 406, 420, 34 IPC at Police Station Garhshankar, District Hoshiarpur.

2. The present FIR came to be registered on the basis of a complaint submitted by Sonia D/o Raj Kumar to the SSP, Hoshiarpur and the same reads as under:-

“Application No.7075-PD dated 22.08.2022. To worthy S.S.P., Hoshiarpur. Subject: Application against Dilbar Ram son of Gurbachan Ram resident of Chohra and his wife 2) Sunita, resident of village Chohra, police station Garhshankar, (3) Pardeep Singh son of Baljit Singh (4) Ravinder Kaur wife of Baljit Singh (5) Baljit Singh son of Rawal Singh, residents of Ludhiana (Sahibzada Ajit Singh Nagar, H.No.11635 Street No.01, Ludhiana) and uncle (Mama) of Ludhiana people. Sir,

It is submitted that myself Sonia/ daughter of Sh.Raj Kumar residing at village Chora, PS Garhshankar, District Hoshiarpur. Around 1 year ago from today, when my father had sold his house and when we got retirement funds, that time Dilbar Ram son of Gurbachan Ram r/o Village Chohra was introduced by my brother-in-law (Jija) Balwinder Kumar. Thereafter, Dilbar Ram started talk of my marriage, in which his wife Sunita had also participated. They got us met to Pardeep Singh son of Baljeet Singh at their house at village Chohra talk of marriage of mine with Pardeep had started, wherein, my mother, younger brother, father Raj Kumar brother-in-law (Jija) Balwinder Kumar and his wife Tinu had participated, it was decided that the boy will take the girl abroad at U.K. it will cost around Rs.25 to 30 lacs and both of the boy and girl will depart for U.K. It was also undertaken that younger brother to will be called there later on. Whatever expense to be incurred shall be borne half by both of the parties, thereafter, we alongwith my brother in law and sister Tinu paid Rs.5 lacs at the house of Dilwar Ram at village Chohra, where his wife Sunita, Pardeep Singh, Baljeet Singh and Ravinder Kaur were present. Thereafter, Rs.4 lacs were given at the time of my father's retirement in the presence of above all persons and around 15 days thereafter, Rs.2 lacs were given after arranging those from relatives. After two months another Rs.2 lacs were given. This way, Rs.13 lacs was paid. On 15.03.2022 said Dilwar Ram got executed agreement of Rs.2 to Gurchetan Singh and Rs.5 lacs was taken for construction of house. At the time of execution of agreement qua Rs.2 lacs by Dilwar Ram, it was undertaken that the colony is approved and shell laid the interlock tiles within 15 days. On 02.08.2022 when we started asking for marriage and

regarding house, then on 4th date Pardeep Singh, Ravinder Kaur, Baljeet Singh gathered at the house of Dilwar Ram, then they fixed 10th day i.e. Wednesday for solemnization of marriage and stated that work is settled, give another Rs.1.5 lacs and on 05.08.2022 gave Rs.1.5 lacs at the house of Dilwar Ram and we got busy in arrangements of marriage and informed our sisters. When my brother in law Prem Kainth and his wife Sunita discussed after coming to our house and that time we developed some suspicion and realize that when is happening to us. We spoke to Dilwar Ram regarding shortage of time and in the presence of Sunita at his house and in the presence of his children we decided that ceremony (Mayian shagun) shall be solemnized at our house. On Monday being a working day, we returned. Later on, we came to know that Dilwar Ram got held the Mayian ceremony held at his house and said that where there is a place of workshop, there only the bridegroom gets ready. Besides this, gold of RS.2 lacs was given to Dilwar Ram. Rs.2 lacs were spent on clothes. On 10.08.2022 the Barat came. The entire family came at Dilwar's house and started getting ready there only. After getting Shagun Ceremony held, started demanding another Rs.2 lacs and stated that I will not solemnize marriage. He started getting nervous and fell there only like he suffering from some disease or he has consume some intoxicant. They started this drama. When we came to know then we reached and spoken to the bridegroom and asked as to what he is doing. You have taken lot of money from us and got the family seated inside. After enough arguments, we told Dilwar Ram that we do not want to get the girl married and the girl also refused for the same. After all this seen Sunita wife of prem Kainth dialed 100 number twice from his mobile. They

heard our words and then we stated that you please wait, we will convey. Now, after all we revealed that Dilwar Ram and his wife Sunita has committed fraud with us. My mother Gurdev Kaur and younger brother Prabhjot 18 years, who knows nothing but have been extracting money from them and they were kept on threatened that if you speak to anyone then your family will be spoiled, house will be sold. He is a fraudster and his wife is also involved with him and in the end asked Sunita that he can also get her killed and you have nothing. If I wish to, then can give Rs.40 lacs tomorrow morning and got the boy and the family fled away. Being handicapped my father could not do anything. The family of Dilwar is threatening our family to kill them. He has defrauded with us for more than Rs.25,50,000/-. My father is handicapped and they have taken undue benefit of it and due to his, my parents had tried committing suicide and if we had not handle the suggestion then something worse could have happened to the family, it is requested that action may be taken against accused persons as early as possible. Necessary evidence is attached. I shall be very thankful. Thanking you. Sd/- Sonia. Applicant Sonia d/o Sh. Raj Kumar r/o village Chohra, P.S. Gargshankar, District Hoshairpur, Mb. No.98157- 49764, 84279-49764, dated 11.08.2022.”

3. The learned counsel for the petitioners contends that neither the petitioners nor their son Pardeep Singh had an idea that Dilwar Ram had extracted money from the complainant family on the pretext of the marriage of the complainant with the co-accused Pardeep Singh. On the date of the marriage, Pardeep Singh fainted giving an impression to the complainant party that he was in an intoxicated state. It was in that

situation that the complainant had refused to marry Pardeep Singh son of the petitioners. It was only when the complainant party demanded their money from Dilwar Ram that the petitioners came to know that the money was being extracted by Dilwar Ram from the complainant party on the pretext of the marriage to be solemnized between the complainant and Pardeep Singh enabling the complainant to be taken abroad. Even as per the FIR, the entire money had been paid to Dilwar Ram. As the petitioners were ready and willing to join investigation, they were entitled to the concession of anticipatory bail.

4. On the other hand, the learned State counsel along with the counsel for the complainant while referring to the reply dated 31.05.2023, contend that the petitioners along with Dilwar Ram and his wife Sunita had cheated the complainant and her family members of a huge amount of money on the pretext of getting her married to Pardeep Singh son of the petitioners enabling them to move abroad. In fact, the money had been paid to Dilwar Ram in the presence of the petitioners and their son. Even at the Shagun ceremony, the petitioners had demanded a sum of Rs.2,00,000/-. All the facts as mentioned in the FIR had been duly admitted by the arrested accused Dilwar Ram and recoveries of Shagun articles have also been effected from the said Dilwar Ram thereby *prima facie* establishing the offence against the accused including the petitioners. Thus, the petitioners were not entitled to the concession of anticipatory bail.

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

7. As per the prosecution case, there are serious allegations levelled against the petitioners and their co-accused that they in connivance with each other cheated the complainant on the pretext of marriage and for taking her abroad. Certain ceremonies of the marriage were also performed before the marriage but at the last moment demand of more money was raised after which Pardeep Singh son of the petitioners feigned illness because of which the complainant refused to marry him. A huge amount of money was taken by the accused from the family of the complainant vide different transactions which was not returned. The FIR had been registered only after a thorough investigation conducted by the DSP. Thus, once the offence stands *prima facie* established and the investigation is to be taken to its logical

conclusion, the petitioners are not entitled to the concession of anticipatory bail.

8. In view of the above, I find no merit in the present petition. Therefore, the same is stands dismissed.

9. However, observations made hereinabove are only for the purpose of deciding this anticipatory bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

29.112023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No