

CRM-M-29346-2023
Reserved on: 24-08-2023.
Pronounced on: 01.09-2023.

...Petitioner

Versus

...Respondent

Present: Mr. Chetan Mittal, Sr. Advocate with
Mr. Kunal Mulwani, Advocate
Mr. Deepinder Singh, Advocate
Mr. Vikas Thakur, Advocate and
Mr. Ritvik Garg, Advocate
for the petitioner(s).

Mr. Ferry Sofat Addl. AG, Punjab.

Mr. P.S. Ahluwalia, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
11	16.08.2022	Vigilance Bureau, Ludhiana	420, 409, 467, 468, 471, 120-B IPC read with Sections 7, 8, 12, 13(2) of the Prevention of Corruption Act 1988 as amended by the Amendment Act 2018

1. After the dismissal of the first anticipatory bail petition by a co-ordinate bench of this court, the petitioner has filed a second petition before this court, under Section 438 CrPC, seeking anticipatory bail.

2. In paragraph 31 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. State's counsel opposes the bail on various counts and on instructions received

from higher officials as well as the Deputy Superintendent of Police Ashwani Kumar, who was present in the Court, submit that after the rejection of the bail, they made efforts to nab the petitioner and such efforts will go on till the petitioner is arrested, subject to the decision of this court. The stand of the State is that only the petitioner's custodial interrogation is required considering the grave allegations and the massive amount involved in paddy scam, he is not even entitled to regular bail.

REASONING:

5. After dismissal of the first bail petition, in the second bail petition, the petitioner states that the allegations against him that false truck numbers were given, whereas, they were only typographical errors, are false. In the petition, it has been specifically mentioned that at the time of contract, registration of number of trucks was mentioned and there is no allegation and evidence that paddy was not transported in the trucks. Thus, the case of the prosecution that some of the vehicles were not trucks but two wheelers is only because of clerical errors.

State's response on this case is that whenever paddy was loaded and unloaded a record had to be maintained at both the points and there is no record to show that paddy was transported in trucks. There was a massive fraud as such the petitioner and other accused had concocted documents because of which when they were mentioning the vehicles which had transported paddy they mentioned random numbers and some of the numbers were of two wheelers.

6. A Co-ordinate Bench of this Court vide a detailed order dated 17.10.2022 (Annexure P-11) had dismissed the anticipatory bail of the petitioner and other co-accused. After that the petitioner instead of challenging the said order before the Hon'ble Supreme Court, had filed the second bail petition before this Court by taking up an additional ground of merit which will not make out a justification for second bail petition. Probably the petitioner took advantage of the fact that the investigation agency could not nab him and thus to take a second chance, filed a second bail petition with hardly any new fact. There is no substantial change in the facts and circumstances of the case due to any subsequent event. Even further this Court considered all the points and there is no justification for the petitioner to keep on at new legal questions by filing second multiple bail petitions under Section 438 CrPC. The petitioner's next ground is that one Paramjit Chechi was granted interim bail by this Court and the petitioner is entitled to bail on parity.

7. I have gone through the bail of Paramjit Chechi and also reasoning of the order and it is not at all on parity with allegations of the petitioner. Thus the petitioner is not

entitled to bail on parity with Paramjit Chechi. Petitioner's counsel had tried to argue the entire case afresh which is impermissible in law because of the Writer of Section 354 IPC.

8. Counsel appearing for the State has strenuously argued that they want custodial investigation to unearth the recovery mentioned and unearth the involvement of more government officials. Therefore, I find force in the argument made by the State counsel and custodial interrogation is required. The petitioner fails to make out a case and an analysis of the allegations and evidence collected does not warrant grant of bail to the petitioner.

9. In *Jai Prakash Singh v. State of Bihar and another* (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See *D.K. Ganesh Babu v. P.T. Manokaran* (2007) 4 SCC 434, *State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain* (2008) 1 SCC 213 and *Union of India v. Padam Narain Aggarwal* (2008) 13 SCC 305].

10. In *State rep. by CBI v. Anil Sharma*, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[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 ensconced with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring 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.

11. In *Central Bureau of Investigation v. Santosh Karnani*, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, "Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority." Hence, the need to be extra conscious.

12. Considering these judicial precedents, the facts, and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail.

13. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

01.09.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.