

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-30267-2023

Date of Decision:-25.09.2023

Randhir Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. D.P.S. Bajwa, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.113 dated 18.05.2023 under Sections 406, 420 IPC registered at Police Station Rajpund, District Kaithal, Haryana.

2. The present FIR came to be registered at the instance of complainant- Jamal Deen son of Lal Deen who sought legal action against 05 persons namely Pardeep, Kulwant, Tinku Garg, Randhir Nepewala (petitioner) and Sandeep. As per the complaint he along with Sunil son of his friend had applied for employment of Group-D in Advertisement No.04/2018, Category No.01. His Roll No. was 4181394120 and according to Registration number 481093991 category BCA he had given examination on 01.11.2018 under Group-D. After giving the examination Pardeep son of his mother's sister told him (complainant) that he knew a person who could get them employed. Pardeep got them (complainant party) introduced to

Sandeep son of Tarsem. Thereafter, Sandeep in his (complainant's) presence spoke with two person one of whom was Tinku Garg and the other was Randhir (petitioner). After talking to them they stated that his (complainant's) work would be done 100% and they asked him to arrange Rs.10 lacs. He (complainant) was also told that the brother of Randhir was a member of the HSSC (Haryana Staff Selection Commission). They (complainant party) arranged the money. Meanwhile the result of Group-D had come and he was assured that his name would be entered in the waiting list. On 28.10.2020 Sandeep, Pardeep and Tinku Garg took them (complainant party) to Panchkula where a sum of Rs.1,50,000/- was paid to Randhir Nepewala. Thereafter he (complainant) and Sunil along with the aforementioned three persons reached Panchkula and paid a sum of Rs.1,50,000/- to the 04 persons. They (complainant party) were also told that an amount of Rs.7 lacs would have to be paid further. On 18.12.2020 a further amount of Rs.5 lacs was paid to Sandeep, Pardeep and Tinku Garg. However on waiting for the result it was found that they (complainant party) had not been put on the waiting list. On further assurances of Randhir a sum of Rs.60,000/- was transferred on 19.01.2022 into the account of Sandeep. On 25.01.2022 a sum of Rs.1 lac was paid to Sandeep and Pardeep. Despite making the payment of Rs.8,80,000/- to the accused no job was provided to them (complainant party). The entire conversation which had taken place between the various accused and him (complainant) had been recorded on his mobile phone. Legal action was sought.

3. The Counsel for the petitioner contends that an enquiry had been conducted by DSP Guhla but nothing incriminating had been found against the petitioner. He had been falsely implicated only under political pressure. The complainant was hand in glove with the owners/operators of

coaching centres and with the connivance of the local police had got registered different FIRs in different police stations against the present petitioner and other innocent persons and the police was trying to save the actual accused who were involved in the present case as the said actual accused were well connected. Even as per the allegations no money whatsoever was paid to be petitioner and the FIR had been got registered after a delay of 02 years and 06 months. He therefore contends that as the petitioner was ready and willing to join investigations, he was entitled to the concession of anticipatory bail.

4. The Counsel for the State on the other hand while referring to the reply dated 19.08.2023 which already stands filed contends that petitioner is habitual offender and is involved in two other cases of similar nature bearing FIR No.397 dated 09.10.2020 under Sections 420, 467, 468, 471, 506 IPC P.S. City Kaithal and FIR No.393 dated 28.10.2022 under Sections 420, 467, 468, 471, 506 IPC and Section 66C, 66F, 74 IT Act, P.S. Narwana Sadar, District Jind. He contends that the petitioner is duly named in the FIR as Randhir Nepewala. Clear and specific allegations have been levelled against him and the other accused who had promised that for a sum of Rs.10 lacs the complainant and Sunil son of his friend could obtain government employment. In fact the petitioner had misrepresented that his brother was a member of the HSSC and on account of this assurance a huge amount had already been paid to all the accused. As the offence was prima facie established and the custodial interrogation of the petitioner was essential to take the investigation to its logical conclusion, the petitioner was not entitled to the concession of anticipatory bail.

5. I have heard learned Counsel for the parties.

6. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep***

Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870'', has 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”.

8. In the instant case, the petitioner is duly named in the FIR with specific allegations levelled against him. He along with his co-accused misrepresented to the complainant that the brother of the petitioner was a member of HSSC. Being taken in by the assurances of the accused including the petitioner a huge amount of money had been paid to the accused without the promised job being provided. Therefore, the offence is prima facie established against the petitioner and his co-accused. As the investigation is to be taken to its logical conclusion the custodial interrogation of the petitioner is certainly required.

9. In view of the above, I find no merit in the present petition and the same stands dismissed.

10. However, the observations made hereinabove are only for the purposes 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

September 25, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No