

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

CRM-M-36051-2023

Date of Decision:-11.09.2023

Renu Kaur.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Shivam Grover, Advocate for the Petitioner.

Mr. Rajiv Goel, Deputy Advocate General, Haryana.

Mr. Sandeep Berwal, Advocate for the Complainant.

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.0250 dated 07.06.2023 under Sections 10 & 24 of Immigration Act and Section 406, 420 and 506 IPC registered at Police Station Kurukshetra University, Kurukshetra, Haryana.

2. The present FIR came to be registered at the instance of Mamta Rani who stated that one Bahadur introduced her to Sandeep Singh son of Trilok Singh and Renu Kaur (petitioner) wife of Sandeep Singh who were involved in sending people abroad. They offered to send her (complainant's) husband Sukhwinder Singh to Italy for an amount of Rs.12 lacs. In furtherance of the assurance, a sum of Rs.13,000/- along with the passport of her husband Sukhwinder Singh had been given to the accused on 27.03.2022. Thereafter on 18.10.2022 a sum of Rs.5 lacs was paid to the accused persons. On 24.12.2022 a sum of Rs.90,000/- was transferred to one Sumit who was an agent at Delhi. On 27.12.2022 the accused persons had sent her husband to Iran after which a further demand of Rs.4,25,000/- was made for making arrangements for the travel of Sukhwinder Singh, her husband from Iran to Italy. On this demand being raised, she (complainant)

had transferred an amount of Rs.4,25,000/- into the HDFC bank account of Renu Kaur (petitioner) at Kurukshetra. In this way the accused persons had received a sum of Rs.10,28,000/-. However, they had left her husband in Iran and had made no arrangements to send him to Italy. On seeking a refund of the amount, the accused had given her a cheque for an amount of Rs.3,50,000/- which had been dishonoured. Thus she had been cheated of a huge amount of money which she had raised by selling her jewellery and mortgage her land. The accused had taken the money and had not sent her husband to Italy as per their assurances. Legal action was sought.

3. The Counsel for the petitioner contends that petitioner has been falsely implicated in the present case only on account of the fact that she is the wife of Sandeep Singh. In fact she had never met the complainant and no assurance had ever been given by her to the complainant. The liability, if any, lay with her husband who was a travel agent. On the contrary the husband of the complainant who was purportedly stuck in Iran could very well have come back to India but has not done so. This would show that Sukhwinder Singh, the husband of the complainant was residing in Iran with his free will. As the petitioner was a lady with two school going children she was entitled to the concession of anticipatory bail.

4. The Counsel for the State on the other hand has filed a reply by way of affidavit dated 09.09.2023 of Mr. Subash Chand, DSP, Kurukshetra in court today. The same is taken on record. He contends that an amount of Rs.4,25,000/- was transferred in the bank account of the petitioner by the complainant. Specific allegations have been levelled against the petitioner and her husband. The petitioner was a habitual offender with one other case bearing FIR No.402 dated 15.7.2023 under Sections 420, 406, 506, 120-B IPC P.S. Mahesh Nagar, Ambala registered against her. Therefore, as the offence was prima facie established, she was not entitled to the concession of anticipatory bail.

5. The Counsel for the Complainant has opposed the bail application and states that the petitioner was one of the main accused as was apparent from the fact that Rs.4.25 lacs had been transferred to her account.

6. I have heard learned Counsel for the parties.

7. 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, there are specific allegations levelled by the complainant against the petitioner and her husband Sandeep Singh. In

furtherance of the allegations, it has been found that a sum of Rs.4,25,000/- was transferred by the complainant in the bank account of the petitioner as a part payment of sending the husband of the complainant to Italy. Despite an amount of Rs.10,28,000/- having been paid to the petitioner and her husband, the husband of the complainant namely Sukhwinder Singh has not been sent to Italy. On the other hand Sandeep Singh issued a cheque to the complainant which came to be dishonoured. Keeping in view the fact that the allegations are grave, the petitioner is a habitual offender and the case is *prima facie* established against her no case for the grant of anticipatory bail is made out. Therefore, the present petition stands dismissed.

9. However, observations made hereinabove are only for the purpose of deciding the anticipatory bail application and shall not have any bearing on the merits of the case.

(JASJIT SINGH BEDI)
JUDGE

September 11, 2023
Vinay

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