

CRM-M-39450-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 16.10.2023

(1) CRM-M-39450-2023 (O & M)

Lakshmi @ Laxmi @ Jassi Petitioner

V/s

The State of Punjab ...Respondent

(2) CRM-M-48432-2023 (O & M)

Magadleena Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Arora, Advocate,
(in CRM-M-39450-2023).
Mr. Om Malhan, Advocate and Mr. Arsh Bir, Advocate
(in CRM-M-48432-2023)
for the petitioner(s).

Mr. Kirat Singh Sidhu, DAG, Punjab
with Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions
i.e. CRM-M-39450-2023 and CRM-M-48432-2023 as they arise out of the
same FIR.

2. The petitioner-Lakshmi @ Laxmi @ Jassi (in CRM-M-39450-
2023) and the petitioner-Magadleena (in CRM-M-48432-2023) seek the

grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.101 dated 15.06.2023 under Sections 384, 506, 420 and 120-B IPC registered at Police Station Beas, District Amritsar.

3. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-48432-2023.

2. The present FIR came to be registered at the instance of Sucha Singh son of Channan Singh who stated that he was an agriculturist and had two children, a son Gurpreet Singh and a daughter Pawandeep Kaur. On 11.06.2023, he received a call from phone number 7347228306 on his phone number 8427027048. The caller disclosed her named as Nisha Rani and started talking to him. Thereafter, they became friendly and he (complainant) informed Nisha Rani that he had got his knee replaced. Nisha Rani made him talk to another woman, namely, Magadleena @ Maghdleen @ Reena (petitioner in CRM-M-48432-2023) wife of Benjamin who stated that they were into the business of multiplying the money of investors. On being enticed, he stated that he also wished to get his money doubled. On 14.06.2023, he went to PAP Chowk, Jalandhar from where Nishal Rani made him sit on her scooty and took him to her house. She made him sit on her bed. In the meantime, the second woman, namely, Maghdleen @ Reena also came there. Thereafter, two youth also came to the house who disclosed their names as Jagbir Singh and Sunny. Thereafter, one more woman and one man also came there. The woman disclosed her name as Lakshmi @

youth disclosed his name as Gulshan Kumar. All of them asked him to remove his clothes and started making his video. They threatened to call the head of Tarna Dal to defame him as he was an Amritdhari Sikh. They demanded a sum of Rs.10 lacs, failing which, they threatened to implicate him in a police case. On account of fear, he promised to give them a sum of rupees two and a half lacs to which they agreed, after which they put him in the car and drove him to Beas. On other person, namely, Ranjit Singh followed that car on a mortorcycle. They forced him to withdraw money from the SBI Bank ATM at Beas but could not do so as he had forgotten his ATM Pin number. Then they threw him on the ground and went away. They kept on threatening him on the phone and demanded money in the absence of which he would be defamed. They had also shown him various videos on the phone and stated that they had extorted money in this manner from 8/10 persons. Legal Action was sought.

During the course of investigation in the present case, the petitioner-Jagbir Singh was arrested on 15.06.2023 and got recovered one mobile phone. During the course of interrogation, he disclosed that Nisha Rani, Magdalina @ Reena, Lakshmi @ Jassi, Ranjit Singh, Gulshan Kumar and Sunny would mislead the gullible people with sweet talks on the phone and trap them. Their obscene videos would be made after which they were black-mailed and huge amounts of money would be taken from the victims.

Their group had extorted money from 14/15 men till date and the master

present complainant whose video had been recorded and a demand of Rs.10 lacs had been made. However, the deal was struck for Rs.2,50,000/- and the money was to change hands on that day, but he had got arrested.

5. The learned counsel for the petitioners contend that the petitioners-Magadleena (in CRM-M-48432-2023) and Lakshmi @ Laxmi @ Jassi (in CRM-M-39450-2023) have been falsely implicated in the present case. No offence whatsoever had been committed by them. Section 384 IPC would not apply as no money exchanged hands. Similarly, the ingredients of Section 420 IPC were not made out. The petitioner-Magadleena had been involved in the present FIR because she was the *massi* (mother's sister) of co-accused Lakshmi @ Laxmi @ Jassi who had move a complaint against her husband Ramesh Kumar, who in active connivance with the complainant-Sucha Singh had got registered the instant FIR to put pressure on the family so that the complaint file by Lakshmi @ Laxmi @ Jassi would be withdrawn. As the petitioners were ladies and ready and willing to join the investigation, they were entitled to the concession of anticipatory bail. Reliance is placed on the judgments in '***Md. Ibrahim & ors. versus State of Bihar & anr. (Criminal Appeal No.1695 of 2009 arising out of SLP (Crl.) No.6211 of 2007 decided on 04.09.2009) and Isaac Isanga Musumba and others versus State of Maharashtra and others, (Writ Petition (Crl.) No.80 of 2013 decided on 19.06.2013)***'.

6. The learned counsel for the State, on the other hand, has filed

Singh, PPS, Deputy Superintendent of Police, Sub Division Baba Bakala Sahib, District Amritsar Rural, in each of these petitions. The same are taken on record. While referring to the replies, he contends that the petitioners in connivance with each other had asked the complainant to remove his clothes and then they started making his video and also started to threaten him by saying that as he had taken *Amrit*, they would call the head of Tarna Dal and would defame him, and thus, attempted to extort Rs.10 lacs. On account of fear on being defamed, the petitioner had agreed to give Rs.2,50,000/- to the accused. The petitioners in connivance with the other co-accused were running a honey trap gang in which they misled gullible persons, trapped them in their net by making obscene videos for the purpose of blackmailing and on that pretext demanded a huge money from them. Thus, the offence was *prima facie* established. Even otherwise, the custodial interrogation of the petitioners was necessary not only to get recovered their respective mobile phones and other electronic devices in order to examine the obscene video of the complainant referred to in the FIR but to unearth the entire conspiracy and to ascertain the identities of the persons from whom the petitioners and their co-accused had extorted money under the fear of blackmail. He, therefore, contends that they were not entitled to the concession of anticipatory bail.

7. I have heard the learned counsel for the parties.

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

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.”

9. From the police investigation conducted so far, it is apparent that firstly Nisha Rani promised to double the money of the complainant thereby attempting to cheat him and then all the accused in connivance with each other honey trapped the complainant and attempted to extort Rs. 10,00,000/- from him. However, he promised to pay Rs.2,50,000/-. It is only on account of the fact that the complainant was unable to operate his ATM that he escaped by making a promise to make the payment later.

In fact, the recoveries of the mobile phone and other electronic devices have to be effected in order to examine the obscene video of the complainant. The custodial interrogation of the petitioners is also required

to ascertain the names of other aggrieved persons whom the accused blackmailed and extorted money from. Therefore, as the offence is *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioners is certainly required.

10. In view of the above, I find no merit in the present petitions and the same stand dismissed.

11. However, it is made clear that the observations made in this order are only for the purpose of deciding these bail applications 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.

October 16, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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