

CRM-M-42637-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-42637-2022 (O & M)****Date of decision: 21.03.2023**

Chanderpal @ Sahil

.... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ashwani Bhardwaj, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.420 dated 09.08.2022 under Sections 170, 384, 419, 420 IPC registered at Police Station Sadar Fatehabad, Haryana.

2. The brief facts of the case are that Pradeep Kumar (complainant) made a complaint to the investigating agency stating that he was running a factory in the name of Krishna Trading Company in village Badopal. On 05.08.2022, at about 1.30 p.m., in the afternoon, he alongwith his uncle Pritam Singh and Raju were sitting in his factory. At that time, four boys came in a car bearing No.HR-21P-9654 Model Tata Tiago, stating that they had come from CIA Staff and he (complainant) was to be searched. They threatened to implicate him in a false case and demanded Rs.3 lacs. He (complainant) gave a sum of Rs.2,40,000/- and asked them to come on the next day. On 06.08.2022, two of those boys came to take the remaining

CRM-M-42637-2022

::2::

enquiry from them. The boys got nervous and ran away. Legal action was sought against those four boys.

3. Initially, the FIR came to be registered against unknown persons under Sections 170, 384, 419, 420 IPC. During the course of investigation, a supplementary statement of the complainant was recorded on 11.08.2022 wherein he stated that the entire plant of extortion was hatched by his known person, namely, Jitender. Anand, Chanderpal @ Sahil (petitioner), Vikram and an unknown person had come to his factory. The CCTV footage of the occurrence was collected and photographs developed from there were provided to the investigating agency.

During the course of investigation, on 14.08.2022, co-accused Anand was arrested and got recorded his disclosure statement to the effect that he alongwith the petitioner, Vikram and one Kallu, a friend of the present petitioner had extorted a sum of Rs.2,40,000/- from the complainant. The said amount had been distributed amongst six accused persons. In fact, Jitender was in contact with Paramjeet, who were the main conspirators. Thereafter, Paramjeet was arrested. He also disclosed the manner in which the occurrence took place and how the extorted money was distributed. The co-accused/Paramjeet got recovered Rs. 20,000/- and a mobile phone, Anand got recovered Rs.15,000/- and a mobile phone alongwith an Identity Card issued by the Haryana Police wherein he (Anand) was shown as an SPO. Thereafter, on 21.08.2022, co-accused/Jitender @ Lambu was arrested. He also suffered a similar disclosure statement and got recovered Rs.30,000/- and a mobile phone.

On 09.09.2022, a co-accused/Vikram was apprehended and a Tata Tiago car bearing No. HR-21P-9654 and a mobile phone were

recovered from him alongwith Rs.15,000/- in cash. He also got recorded his

disclosure statement that the petitioner had shown a police uniform and a police Identity Card to him (Vikram).

After completion of the investigation, the report under Section 173 Cr.P.C. has been presented against Anand, Paramjeet, Jitender @ Lambu and Vikram for having committed the offences under Sections 120-B, 170, 384, 419 and 420 IPC.

4. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. In fact, the petitioner and his friends wanted to purchase a plot at Adampur Road, Agroha Mod. The complainant had disclosed that he was the owner of the said plot and wanted to sell the same. A sum of Rs.1,00,000/- as token money had been handed over to the complainant. However, the complainant neither arranged the plot nor refunded the amount. On 05.08.2022, the petitioner and his friends had visited the complainant seeking a refund of the money. However, the petitioner and his friends were asked to come on 09.08.2022. On the said date, there was a quarrel between the parties, leading to the registration of the present FIR. The present case was not one of extortion at all as has been sought to be made out in the FIR.

5. The learned counsel for the State, on the other hand, contends that the investigation conducted so far clearly establishes that the petitioner and his co-accused have committed the offence in question. While referring to the reply dated 17.03.2023 filed by way of an affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Fatehabad, he contends that the part of the money extorted from the complainant has been recovered from various accused who were arrested. One of the accused, namely, Anand was a dismissed police officer as he was an accused in FIR No. 22 dated

7 and 8 of the P.C. Act registered at Police Station State Vigilance Bureau, Hisar. The criminal antecedents of Anand also establishes the prosecution case of money being extorted by the accused on the pretext of the accused being a part of the CIA Staff Team. The defence of the petitioner that a land deal had gone bad is completely baseless. Since an amount of Rs.1,30,000/- was to be recovered from the petitioner alongwith his police uniform, Identity Card and a mobile phone, the custodial interrogation of the petitioner was certainly required. Even otherwise, since the allegations against the petitioner were grave and he was a habitual criminal having as many as four other cases registered against him, the discretionary relief of the pre-arrest bail could not be granted to him.

6. I have heard the learned counsel for the parties at length and examined the record.

7. A perusal of the FIR alongwith the investigation conducted so far clearly establishes the culpability of the petitioner and that of his co-accused. In fact, one of his co-accused, namely, Anand is a dismissed police officer and therefore, the accused masquerading as police officers to extort money is quite apparent. Not only are various articles such as his police uniform, Identity Card and mobile phone to be recovered from the petitioner for which his custodial interrogation is necessary but the seriousness of the allegations themselves do not entitle him to the grant of anticipatory bail, moreso, in the light of his criminal antecedents.

8. The Hon'ble Supreme Court in the case of '*Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977*' 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

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. Keeping in view the serious allegations levelled against the petitioner alongwith his criminal antecedents with four other cases registered against him vide FIR No.No.13 dated 09.01.2021 under Sections 186, 332, 342, 353 and 511 IPC registered at Police Station Sadar Hansi, FIR No.16 dated 10.01.2021 under Section 61-A Excise Act, registered at Police Station Sadar Hansi, FIR No.19 dated 11.01.2021 under Sections 323, 325, 506, 34 IPC registered at Police Station Sadar Hansi and FIR No.75 dated 25.03.2020 under Section 188 IPC registered at Police Station Sadar Hansi as also the need for his custodial interrogation to get recovered his police uniform, Identity Card and mobile phone used at the time of the occurrence, I find no merit in the present petition and therefore, the same is dismissed.

10. However, it is made clear that the observations in this order are only for the purposes of adjudication of this petition and the Trial Court is free to adjudicate upon the matter uninfluenced by any observation made herein.

(JASJIT SINGH BEDI)
JUDGE

March 21, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No