

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

CRM-M-46591-2022

Date of Decision:-20.02.2023

Jasbant Singh @ Goldy Bajwa.

.....Petitioner.

Versus

State of Punjab.

.....Respondents.

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

Present:- Mr. Pradeep Panwar, Advocate for the Petitioner.

Mr. Shubham Kaushik, Assistant Advocate General,
Punjab.

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.162 dated 3.8.2022 under Sections 420, 120-B IPC and Section 24 of the Immigration Act registered at Police Station Division No.8, Ludhiana, later on added Sections 465, 467, 468, 471 IPC.

2. The brief facts of the case are that one Narinder Singh got recorded his statement to the effect that he was an agriculturist. On seeing an advertisement on his facebook app regarding Paramount Immigration Services, Ludhiana he along with his father Jaswinder Singh went to meet Charanjit Singh owner of the Immigration Services on 29.03.2022 to obtain a Canadian Visa. Thereafter his friend Nirmal Singh and Harpreet Singh also met Charanjit Singh at Ludhiana. All the three friends handed over their documents to Charanjit Singh. He (complainant) was called to the office of Charanjit Singh on 15.6.2022. His fingerprints were also taken at the VFS Office, Elante Mall for the visa. He subsequently received a called from Charanjit Singh that his (complainant's) Canadian Tourist Visa had

been issued and money had to be paid in cash. Thereafter on 31.07.2022 a sum of Rs.25.5 lacs was paid in cash by him (complainant) and his 02 friends to Goldy Bajwa (petitioner) who handed over their Canadian Visa stamped passport to them. A video was also made from the mobile phone. The said amount had been withdrawn by his (complainant's) father Jaswinder Singh to pay to the accused. Later in the day when he reached Kotkapura and showed his passport with a stamped Canadian Visa to some knowledgeable person he got to know that it was fake. Subsequently calls were made to said Charanjit Singh but his phone was switched off. Legal action was sought against Charanjit Singh @ Amrit Sohal, Director of Paramount Immigration Services and the petitioner/cashier-Goldy Bajwa.

3. The learned counsel for the petitioner contends that the petitioner was not the beneficiary and was merely working as a cashier. It was Charanjit Singh the owner/proprietor of M/s Paramount Immigration Services, who had taken the premises on rent and was liable. There were three employees of the immigration services, namely, Manpreet Kaur-Receptionist and Amit Helper. An affidavit had been furnished by Manpreet Kaur in favour of the present petitioner. Statements had also been given by the said two employees in favour of the petitioner. It is thus contended that since the petitioner was an employee and had already joined investigation pursuant to an interim order dated 29.10.2022 the petitioner was entitled to the concession of anticipatory bail.

4. The learned State counsel on the other hand has filed a reply dated 28.10.2022. He contends that the main accused Charanjit Singh @ Amrit Sohal (not arrested till date) had prepared two Aadhaar Cards with different names and addresses, therefore Section 465 , 467, 468, 471 IPC had been invoked on 14.09.2022. During the course of investigation it also came to light that there were as many as 22 aggrieved persons who had filed various complaints against the petitioner as well levelling similar allegations as in this FIR. The list of the complaints have been taken on record as Mark-A. The total amount for which 18 victims had been duped was Rs.1,11,74,000/-. The specific role of having received cash from the victims and handing over the passports with a fake and forged Canadian Visa stamp has been attributed to the petitioner. In fact the petitioner is also an accused in FIR No.130 dated 18.06.2021 under Sections 380, 451, 506,

427 and Section 34 IPC P.S. Daresi, District Police Commissionerate, Ludhiana and in FIR No.263 of 2022 under Sections 420 and 120-B IPC P.S. Division No.8, Ludhiana. Therefore, in view of the seriousness of the allegations and to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

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

6. A perusal of the FIR and the reply filed by the State would clearly show that the petitioner is the one who received cash from the victims and handed over the passport to them which contained fake and forged Canadian Visa stamps. As many as 22 other complaints are pending against the petitioner and he is an accused in two other cases as well. The seriousness of the allegations as also the requirement for custodial interrogation does not entitle the petitioner to the grant of anticipatory bail.

7. The Hon'ble Supreme Court in the case of “**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870**”, 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 view of the aforementioned discussion, as serious allegations have been levelled against the petitioner and the investigation has to be taken to its logical conclusion, the petitioner is not entitled to the grant of anticipatory bail and therefore this petition is dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 20, 2023
Vinay

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