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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45626-2023

Date of decision : 04.10.2023

ANKUSH DEMLA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amarjit Singh Virk, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

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.111 dated 02.08.2023 registered under Sections 406/420/120-B IPC at Police Station Civil Lines, Patiala.

2. The brief facts of the case are that Sandeep Singh son of Ravinder Singh, resident of Village Gurdanpur Tarkheri, Amloh, District Fatehgarh Sahib, filed an application No.1077/Peshi, 256/FR dated 24.07.2023 before the SSP, Patiala against Maninder Singh son of Jaswant Singh and Charaninder Singh son of Maninder Singh on the allegations that Charaninder Singh had opened an office in the name of 'Crossland' at Leela Bhawan at Patiala for sending people abroad. The complainant had met Charaninder Singh who assured him (complainant) to send him to Canada within a period of one month and the deal was settled at Rs.35,00,000/-. On 04.10.2022, Rs.32,00,000/- was paid in

cash to Charaninder Singh and his father Maninder Singh at their office 'Crossland' at Leela Bhawan, Patiala. The remaining money was to be paid after reaching Canada. The amount was paid in the presence of Jaswant Singh (grandfather), Ravinder Singh (father) and Manjot Singh. However, despite a period of a month elapsing, the complainant was not sent to Canada. The accused put off the complainant on one pretext or the other. In December, 2022 when the complainant along with his family members had gone to the office of Charaninder Singh, they came to know that the office had been closed. However, on the basis of telephonic conversations and a subsequent meeting, Charaninder Singh gave a cheque of Rs.32,00,000/- to the complainant for a final settlement. When the complainant deposited the said cheque in his account, it was dishonoured.

The aforementioned application which had been sent to the SSP, Patiala was marked for an inquiry to the DSP, Headquarters, Patiala. Both the parties were summoned. The accused party came present before the Inquiry Officer on 10.02.2023 and spoke to an agent Tejpal Singh of Jalandhar. The time was sought till 15.02.2023 but on that date, the accused party did not appear before the Inquiry Officer. However, one Advocate was sent to take part in the proceedings. Later, on 10.03.2023, Charaninder Singh and Ankush Demla (petitioner) entered into an agreement dated 10.03.2023 in which the accused admitted that the complainant-Sandeep Singh had paid Rs.32,00,000/- to Charaninder Singh son of Maninder Singh and Maninder Singh son of Jaswant Singh. The amount had been further paid to the petitioner-

Ankush Demla. It was agreed that a sum of Rs.32,00,000/- would be returned and as a security, the petitioner was to execute the sale of his plot situated at Kaithal in favour of the complainant. However, the aforementioned agreement was not implemented. Neither was an amount of Rs.32,00,000/- returned to the complainant nor was the sale deed executed in favour of the complainant by the petitioner (Ankush Demla).

Thereafter, yet another affidavit dated 25.03.2023 was executed by the petitioner in favour of the complainant. In the said affidavit, it was mentioned that an agent Tejpal Singh had introduced the petitioner to Sandeep Singh in order to send him (Sandeep Singh) to Canada. A sum of Rs.32,00,000/- was to be paid to Tejpal Singh for payment to him (petitioner). He once again admitted that he was liable to return Rs.32,00,000/- to Sandeep Singh. He also stated that he had returned Rs.2,25,000/- through Charaninder Singh to Sandeep Singh and the remaining amount of Rs.29,75,000/- he was to return within three months failing which the sale deed of the property in Kaithal would be executed in favour of Sandeep Singh.

Despite availing various opportunities to return the amount, neither was the said amount returned nor was the complainant sent to Canada leading to the registration of the instant case.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The liability if any was of Charaninder Singh and Maninder Singh. The petitioner at best was a guarantor and no criminal culpability could be affixed upon

him. In the initial complaint submitted by the complainant, there was no mention of any role played by the petitioner. As the petitioner was ready and willing to join investigation, he was entitled to the concession of bail.

4. A reply dated 03.10.2023 by way of an affidavit of Sanjeev Singla, PPS, Deputy Superintendent of Police City-I, Patiala has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, she contends that during the course of the inquiry, it transpired that the petitioner had been introduced to the complainant-Sandeep Singh through one agent Tejpal Singh. Tejpal Singh was to give him (petitioner) Rs.32,00,000/- after taking from Sandeep Singh. The said amount was paid to co-accused Charaninder Singh who had given him (petitioner) the said amount. Thereafter, the petitioner had categorically admitted that the sum of money had been received by him and in case he was unable to return the same, he would execute a sale deed of his property at Kaithal in favour of Sandeep Singh. She, therefore, contends that the petitioner is in fact, one of the main accused having received an amount of Rs.32,00,000/- as has been clearly borne out from the police inquiry and from agreement dated 10.03.2023 (Annexure R-1) and affidavit dated 25.03.2023 (Annexure R-2). As the offence was *prima facie* established and the investigation was to be taken to its logical conclusion, the petitioner was not entitled to the grant of anticipatory bail.

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

6. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (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.

7. Coming back to the facts of the instant case, as per the prosecution case, the complainant had paid a sum of Rs.32,00,000/- to Charaninder Singh and his father Maninder Singh at their office in 'Crossland' at Leela Bhawan on 04.10.2022. Thereafter, the said amount was handed over to the present petitioner. Neither was the complainant sent abroad nor was the money returned to him. The co-accused Charaninder Singh had initially issued a cheque for an amount of Rs.32,00,000/- which came to be dishonoured. Thereafter, an agreement dated 10.03.2023 (Annexure R-1) had been entered into between Charaninder Singh and Ankush Demla (petitioner) with the complainant-Sandeep Singh as per which Rs.32,00,000/- was to be returned by the petitioner. As a security, the petitioner had also undertaken to execute the sale deed of his plot at Kaithal. Subsequent to

the agreement dated 10.03.2023 (Annexure R-1) an affidavit dated 25.03.2023 (Annexur R-2) was also executed by the petitioner as per which he had undertaken to return a sum of Rs.32,00,000/- to Sandeep Singh (complainant). Neither has the complainant been sent abroad and nor has the amount of Rs.32,00,000/- been refunded to the petitioner. Quite apparently, the offence has been *prima facie* established. Even otherwise, the investigation is to be taken to its logical conclusion for which the custodial interrogation of the petitioner is certainly necessary.

8. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

9. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

04.10.2023
JITESH