

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-49656-2023
Date of decision: 03.10.2023

Manpreet Kaur
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Ms. Riffi Birla, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

AMAN CHAUDHARY, J

1. Prayer in this second petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in FIR No.64 dated 31.08.2022 registered under Sections 420 and 120-B IPC at Police Station Sadar Abohar, District Fazilka.
2. The brief facts that emerge from the FIR, registered on the basis of the statement of complainant-Balwinder Kaur, who is the mother-in-law of the petitioner and both her sons having died and her daughters-in-law Manpreet Kaur and Amanpreet Kaur were residing alongwith her. Manpreet Kaur joined an NGO, which was being run by one Manohar Lal and under his influence, she stayed away from home time and again on the pretext of training. Thereafter, for securing jobs via the NGO for herself and Amanpreet Kaur, certain amounts were taken from the complainant by the petitioner and her co-accused-Manohar Lal in addition to an amount of Rs.1 lakh on the premise that a new scheme has been launched by the NGO to build houses for the widows. She has thus been duped by the above accused on account of getting jobs. She parted with the money with a

view that after the death of her son, it would be good for the petitioner to get a job, little realising that she was being defrauded. However, the petitioner got exposed when the complainant on the checking of her phone, came to know about her being in an illicit relationship with co-accused-Manohar Lal and they were also involved in the death of her son. On having been caught, the petitioner gave threats to the complainant that she would not leave her or her family and will do to her what she did to her deceased son. Thus, an FIR was lodged on the statement of her mother in law, Balwinder Kaur.

3. Learned counsel contends that the petitioner has been falsely implicated in the case. There is no specific date for any alleged payment. The present FIR is a counter blast to the complaint filed by the petitioner, under Section 156(3) CrPC against the complainant and other family members. No amount has ever been received by the petitioner. She is also not involved in any other case and is ready and willing to join the investigation.

4. On receipt of advance notice, learned State counsel opposes the bail on the ground that this is the 2nd petition filed by the petitioner seeking anticipatory bail, however, the first one, having been withdrawn on 16.12.2022, when this Court was not inclined to grant relief. There is no new ground urged to entertain the present petition. Furthermore, there are specific allegations against the petitioner and co-accused of having cheated the complainant on the pretext of getting a job for her daughter in law Amanpreet Kaur. The amount being usurped by the petitioner and her co-accused is about Rs. 4 lac, as per the enquiry conducted by Deputy Superintendent of Police, Abohar, which is yet to be recovered. Further, there are allegations of threatening to put false accusations on the complainant and others in the family. The investigation in the case is not complete and her custodial interrogation is essential to unearth the truth. Thus, to

eliminate the possibility of her threatening the witnesses and tampering with the evidence, the learned State counsel prays for the dismissal of the petition.

5. Heard learned counsel on either side.

6. Pertinently, at the outset, the first petition filed by the petitioner when was at the verge of being dismissed on merits, was withdrawn. In this second petition or even during the course of arguments, no new ground was submitted. Even otherwise, a Division Bench of this Court with regard to entertaining second or subsequent bail petition under Section 438 CrPC, first having been withdrawn had observed that it would not be maintainable merely on the ground that some new inconsequential and cosmetic change in circumstances have come about, further developments such as arrest of co-accused or main accused or bail granted to co-accused, different considerations, some more details, new documents or illness of the accused. It would also not be maintainable on a plea or ground that the Court on the earlier occasion failed to consider any particular aspect or material on record or that any point then available to the accused was not taken, agitated or pressed before the Court. It was held that, “However, the second/subsequent bail application under Section 438 Cr.P.C. would be maintainable only if there is substantial material and substantive change in the fact situation and circumstances of the case due to subsequent events or in law.” [See **Manjinder Kaur vs. State of Punjab**, CRM-M-40916-2022 decided on 30.01.2023].

7. Hon’ble The Supreme Court in **CBI vs. Santosh Karnani**, (2023) SCC Online SC 427, **Sadhna Chaudhary vs. State of Rajasthan**, (2022) SCC OnLine SC 869, **Dr. Naresh Kumar Mangla vs. Smt. Anita Agarwal and Ors.**, 2020 SCC Online SC 1089, while expounding the law on anticipatory bail relied on **Siddharam Satlingappa Mhetre vs. State of Maharashtra**, (2011) 1 SCC

694, which after due deliberation on the parameters evolved by the Constitutional Bench in **Gurbaksh Singh Sibbia vs. State of Punjab**, (1980) 2 SCC 565 held thus:

- “i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

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8. It would be apposite to make a reference to the allegations levelled in the FIR, the relevant part whereof reads thus:

“3. That is continued like this for about one and a half year. When we told Manohar Lal that you have not got jobs for our daughter-in-laws, then Manohar Lal told us in July 2019 that you give me 25-25 thousand rupees to prepare the documents of your daughters-in-law’s, I will get their documents prepared. On which we gave Manohar Lal 25-25 thousand rupees for our daughter-in-law’s, then he told us after about a month and a half that job of your daughter-in-laws is about to be done and 35 thousand rupees will be the joining cost of your daughter-in-law’s job, so we gave him 35 thousand rupees on the request of Manohar Lal took it on the pretext of joining letter from us. Then Manohar Lal told us after a few days that as long as your daughters-in-law’s do not get jobs, our NGO has come up with a scheme to help the widows to build houses and if you give me Rs.1 lakh, then the NGO will give one lakh bricks to both the daughter-in-laws to build house and the remaining money will be given by the NGO. On the asking of my daughter-in-law Manpreet Kaur and trusting Manohar Lal, we gave one lakh rupees to Manohar Lal. Manohar Lal then that if you give me one lakh rupees, then by reducing the amount owed to you by the limit, the rest of the money will be paid by the NGO. So we gave one lakh rupees to Manohar Lal. But after waiting for a long time, neither our debt was waived nor my daughters-in-law’s got jobs. Then in April 2021, Manohar-Lal and my daughter-in-law Manpreet Kaur said that 28 girls have been selected for job and for which the joining party is to be given and for this you give us 25-25 thousand

rupees. On hearing about the job we gave 25-25 thousand rupees more to Manohar Lal on the asking of Manpreet Kaur and Manohar Lal...”

9. Hon'ble The Supreme Court in **Sumitha Pradeep vs. Arun Kumar C.K.**, 2022 SCC OnLine SC 1529, it was observed that requirement of custodial interrogation is not the only ground to decide the grant of anticipatory bail. The relevant para reads thus:

“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 anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

10. It is manifestly clear that anticipatory bail is not a right that may be granted in every other case. The Court has to take into consideration all the facts and circumstances and after its utmost satisfaction, grant it only in exceptional circumstances, where all the factors and parameters are met and there is no possibility of her interfering in the path of justice.

11. The allegations levelled against the petitioner being that she along with co-accused-Manohar Lal, with whom, she has illicit relations, has defrauded the complainant under the guise of securing jobs and threatening to put the blame of the death of her husband on the other daughter in law of the complainant and

others in the family, thus, an element of criminality cannot be ruled out at this stage. Considering the above in light of the foregoing judgments, this Court finds that couching the petitioner in a comparative safety of pre-arrest bail will impede the thorough and effective investigation to elicit the truth and would be detrimental to the same, which is stated to be still underway. The present petition being meritless, is hereby dismissed.

12. The observations made hereinabove are meant only for the purpose of deciding the present petition and in no manner are to be construed as an expression of opinion on the merits of the case.

03.10.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No