

CRM-M-53787-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53787-2022

Date of Decision: 21.04.2023

SUBHASH SINGH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C is for the grant of anticipatory bail in case bearing FIR No.259 dated 18.10.2022 (Annexure P-1) registered under Sections 384, 506, 511, 120-B (Sections 195, 195-A, 201 IPC added later on) at Police Station Sector-09 Ambala City, District Ambala.

2. The brief facts of the case are that on 18.10.2022, Manoj Kumar son of Sh. Ramchand came present at the police station and presented a complaint with the allegations that he was working in FCI had been transferred from Delhi to Ambala City. He was staying in a rented House No.428, Sector 09, Ambala City along with his friends Ravish and Animesh. On 12.09.2022, at around lunch time, suddenly, after opening the main gate of the house, one unknown girl came inside. She stated that she had come to take the house on rent. He (complainant) and his friends informed her that the

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house had already been taken. She provided her mobile phone to him (complainant) stating that they could inform her about any other house which could be taken on rent by her. Thereafter, on account of ill-health, he (complainant) went to his village on 20.09.2022. After 15-20 days, his colleagues Ravish and Animesh called him on the phone and informed him that the said girl who had come earlier for taking the house on rent had come back to the house and stated that he (complainant) had done a wrong act with her and had refused to marry her as she belonged to the scheduled caste community. She wanted to meet him (complainant). Thereafter, on 15.10.2022, he returned back to his rented accommodation at Ambala and while on his way back to the market, one unknown boy wearing a mask came to him. He informed him (complainant) that a girl named Ravneet Kaur had filed a case of rape and caste oriented sections at Police Station Sector 09, Ambala City. He (the unknown boy) demanded a sum of Rs.8-10 lakhs failing which he would get him (complainant) arrested. Threats were also issued to him.

Based on the aforementioned complaint, FIR No.259 dated 18.10.2022 under Sections 384, 506, 511, 120-B IPC was registered at Police Station Sector 09, Ambala City, Ambala.

After the registration of the case, the investigation was carried out by ASI Roop Chand, Police Station Sector 09, Ambala. During investigation, the statements of witnesses were recorded. Thereafter, the investigation was also conducted by Inspector/SHO Ram Pal. During the same, it was found that the accused Ravneet Kaur had got registered a case

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bearing FIR No.240 dated 30.09.2022 under Sections 376/506 IPC and 3 SC and ST Act at Police Station Sector 09, Ambala against Manoj Kumar, the complainant in the instant FIR. The allegations made by Ravneet Kaur were verified by Ramesh Kumar, HPS, DSP, (HQ), Ambala and the same were found to be false. Accordingly, a cancellation report was prepared in the said FIR No.240 on 07.11.2022.

Thereafter, the investigation was carried by ASI Suman Lata, who after collecting sufficient evidence arrested Ravneet Kaur on 08.10.2022. She suffered a disclosure statement that she along with her friends Sukhpreet Kaur and one Gaurav Pratap Singh resident of Ambala Cantt. had implicated Manoj Kumar in FIR No.240 dated 30.09.2022 for which she had received money from Gaurav Pratap Singh. Ravneet Kaur got recovered her mobile phone make Iphone Apple along with a SIM No.8968753641. The same was taken into possession.

During investigation, Sukhpreet Kaur daughter of Raj Kumar was arrested on 21.10.2022. From her possession a mobile phone make Oppo consisting of SIM No.7696889532 was recovered. During the course of investigation, the conversations between Sukhpreet Kaur and Inspector Subhash Singh (petitioner) were taken into possession in a pen drive. Thereafter, an SIT was constituted. Sukhpreet Kaur suffered a disclosure statement admitting that she along with her co-accused Ravneet Kaur and Gaurav Pratap Singh had attempted to extort money from Manoj Kumar, the present complainant. She had also got registered another FIR No.77 dated 26.03.2022 under Section 376(2)n, 323, 379-B, 506 IPC and 3.1 (r) (s) (w)

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SC/ST against a Bansal family of Yamuna Nagar. The instant FIR had been got registered with the aid and connivance of SHO, Subhash Chand and his friend Preeti who worked in a bank along with Gaurav Pratap Singh and Ravneet Kaur. She got recovered a mobile phone make Samsung, ATM Card, Cheque Book, PAN Card and a Passport. Thereafter, Section 201 IPC was added in the instant case.

During the investigation carried by ASI Suman Lata, member of the SIT, accused Preeti daughter of Bharat Singh and wife of Manoj Kumar, the present complainant was arrested.

On 26.10.2022, she suffered a disclosure statement that she had filed a dowry case against her husband Manoj Kumar which was pending at Delhi. Subhash Chand, Inspector, who was in the Haryana Police was known to her and he along with Gaurav Partap Singh in connivance with Sukhpreet Kaur and Ravneet Kaur in order to defame her husband Manoj Kumar and extort money from him had got registered the instant FIR.

3. During the course of further investigation, an LOC was issued against Gaurav Partap Singh who remains untraceable. Meanwhile, Inspector Subhash Chand sought the concession of anticipatory bail and vide order dated 21.11.2022 passed in CRM-53787-2022 had been granted interim anticipatory bail by this Court. During the course of proceedings in the anticipatory bail petition, a fresh SIT was constituted by the I.G. Karnal Range, Karnal. During the course of investigation Section 389/180 IPC was added in the present case and after the completion of the investigation, the

final report/challan were submitted against Ravneet Kaur, Sukhpreet Kaur and Preeti.

Thereafter, during the course of checking of the challan Sections 192/211/218/219 IPC were added.

Meanwhile, the petitioner who had been granted the concession of interim anticipatory bail initially did not join investigation. However, subsequently, he did join investigation but he did not cooperate with the Investigating Agency inasmuch as, he did not get recovered the mobile phones used by him in the commission of the crime.

4. The learned Senior counsel for the petitioner contends that he has been named in the disclosure statement of his co-accused. There was no evidence to suggest that the petitioner was involved in the commission of the offences as alleged. As the petitioner had joined investigation, cooperated with the same and his co-accused namely, Ravneet Kaur, Sukhpreet Kaur and Preeti had been granted the concession of regular bail, the petitioner was entitled to the grant of anticipatory bail.

5. A reply dated 28.03.2023 by way of an affidavit of Ganga Ram Punia, Superintendent of Police, Karnal has been filed on behalf of the State by the learned counsel for the State which is already on record. He contends that the allegations against the petitioner and his co-accused are grave. The petitioner and his co-accused are black-mailers and extortionists. The petitioner was an accused in FIR No.77 dated 26.03.2022 under Section 376(2) N, 323, 379-B, 506 IPC and 3.1(r) (s) (w) SC/ST Act at Police Station Women Yamuna Nagar. There were serious allegations against him that he in

collusion with his co-accused Gaurav Pratap Singh, Sukhpreet Kaur, Ravneet Kaur and others was running an extortion racket, whereby they were trapping innocent persons. The call detail records of the petitioner clearly established that he was in contact with Gaurav Pratap Singh who was in regular contact with the original complainant-Ravneet Kaur which clearly reflected their *modus operandi* in extorting money. Since the petitioner, despite having joined investigation had not cooperated with the Investigating Agency by getting recovered his mobile phone, the petitioner was not entitled to the grant of anticipatory bail. Even otherwise, the serious nature of the allegations levelled against him did not entitle him to the said relief.

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

7. A perusal of the record would reveal that the petitioner in active connivance with his co-accused was attempting to extort money from the present complainant. A similar allegations has been levelled against him on another occasion when he was involved in another case bearing FIR No.77 dated 26.03.2022 under Section 376(2) N, 323, 379-B, 506 IPC and 3.1(r) (s) (w) SC/ST Act at Police Station Women Yamuna Nagar. The conduct of the petitioner who was a member of disciplined force cannot be condoned in any manner whatsoever. Even otherwise, post the interim order of this Court, the petitioner despite joining investigation has refused to hand over his mobile phone on the ground that the same had been lost. Thus, he is stonewalling the investigation. Even otherwise, the nature of the allegations levelled against him does not entitle him to the grant of anticipatory bail.

8. Even otherwise, 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.

9. In view of the aforementioned discussion and the fact that not only has the petitioner not cooperated with the Investigating Agency but also the fact that the allegations against the petitioner are grave, I find that the

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petitioner does not deserve the concession of anticipatory bail and therefore, the present petition is dismissed.

10. 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

21.04.2023

JITESH

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