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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-54996-2023

Date of decision : 03.11.2023

Karanjit Singh @ Karan**..... Petitioner**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. J.S. Ghumman, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case bearing FIR No.101 dated 06.06.2023, registered for the offences punishable under Sections 306 and 34 of IPC at Police Station GRP Ludhiana, District Govt. Railway Police.

2. As per the FIR, it has been alleged as under:-

“Statement of Ashok Kumar son of Sh. Chadi Ram Resident of House No. 35 Street No. 03 Mohalla Dudhal Phagwara Police Station City Phagwara District Kapurthala age about 68 years Mobile No. 9872448105. Stated that I am a resident of the above address and I sells fruit and vegetable at Phagwara. I have two children one son Himanshu Tandon alias Rahul who has committed suicide by

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coming under the train and one daughter Pooja Chopra who is married to Narinder Chopra at Ludhiana. My wife Rita Tandon is a housewife. My son was married at Kapurthala, whose wife's name is Prabhjot Kaur and has a 1 year old daughter. We wanted to send my son to abroad but our neighbor Harjinder Singh talked to us that he will send my son aboard and in the month of August 2022 he called us to his office and there he introduced us so Harpreet resident of Adampur, Karan resident of Chandigarh Hardeep Gill alias Bobby resident of Ludhiana and Ravinder Agarwal alias Pappu resident of Jalandhar and they settled an amount of Rs.35 lakh in order to send our son to America and also said that in short time we will send him to America via Indonesia and Mexico and get him a good job. We gave them the passport of our son. On 7th August 2022, Harjinder called us to his office and took 5 lakh rupees in cash and one lakh deposited in his account and gave my son a ticket to Malaysia. When my son reached the airport, they demanded a sum of Rs.5,70,000/- at Delhi. When my son Himanshu Tandon alias Rahul reached Mexico, he was caught by the police. After keeping my son in Malaysia for 4 days and through my relatives we transferred two and half lakhs in the account mentioned by them. When my son Himanshu Tandon alias Rahul was in Mexico prison, then they gave us false information that your son has reached the camp in America and Karan told us that we have to pay money to the officers at the camp and get him employed legally, they took 16 lakhs in cash from us. After keeping my son Himanshu Tandon alias Rahul in Mexico jail for 4

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days, the police sent him to Mumbai. In September, I received a call from my son then I came to know about the wrong doing of all these five persons, my son told me that he needs to deposit a sum of Rs. 1,30,000/- which is to be paid at Mumbai airport, so I sent Rs.1,30,000 to him. All these five persons assured us again and we again came under their influence and they again sent my son on 16.09.2022 to Mauritius through Bangkok and again started asking for money and send my son from one place to other. When my son came to know that we have been defrauded then he started demanding his money from them and instead of returning the amount they stated troubling my son. Regarding the fraud committed by these persons, my wife Rita Tandon had filed an application to SSP Kapurthala against Harjinder Singh, Harpreet, Karan, Harpreet Gill and Ravinder Agarwal. After this, from my son, Simran resident of Phagwara, Jaswinder Kumar alis Vicky and Heera alis Lalli took 8 lakh rupees on the pretext of betting (satta) and said that they will return this money to him by doubling it and then they did not give any money even after asking again and again, due to which my son started remaining more tensed. On 05-06-2013 at 19:30 hrs my son Himanshu Tandon alias Rahul went by saying to his wife Prabhjot, me and my wife Rita Tandon that I am so fed up with these people and that they we forcing me to die so that they do not have to return the money. Around 23:30 at night, we got a call from the police that your son has committed suicide by coming under the train. We also came to know that he has also sent messages. In this regard his phone be also investigated. My

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son has been instigated to commit suicide by the above mentioned persons and appropriate action should be taken against them. I am giving this statement in presence of my daughter-in-law Prabhjot. I have read the statement and signed the same.”

3. The role of the petitioner is clearly spelled out. He was one of the persons to whom the deceased was introduced by Harjinder Singh-the neighbor of the deceased. An amount of Rs.35,00,000/- as per the allegations were settled by the petitioner only along with Harpreet.

4. Counsel for the petitioner has relied upon order dated 11.10.2023 passed in CRM-M-44538-2023, whereby Harjinder Singh @ Jhonny has been ordered to be admitted to regular bail. To hammer forth his contention that in fact Harjinder Singh was the main accused and whole of the amount as per the FIR was paid to him, he having been admitted to bail that too by recording *prima facie* doubt about the financial capacity of the complainant, the petitioner also deserves to be granted pre-arrest bail. Counsel for the petitioner further submits that is not a case where custodial interrogation of the petitioner is required.

5. Mr. Ghuman, counsel for the complainant would submit that in fact that it is the petitioner along with Harpreet was the main culprit and it is evident from the allegations in the FIR that after the deceased was duped and was robbed of whole of the savings of his life on the pretext of the greener pastures. He found no other way to escape, but to take his life and thus it is a case wherein the act of the petitioner would cause constitute abetment as enumerated under Section 107 of IPC to constitute offence punishable under Section 306 of IPC.

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6. Having heard rival contentions of the counsel for the parties and after going through the record of the case including order dated 11.10.2023 passed in CRM-M-44538-2023, this Court is of considered opinion that at the time of considering prayer for pre-arrest bail, the Court is primarily concerned with the seriousness of the allegation and the role attributed to the petitioner. The court should not foray into the facts with respect to financial capacity of the complainant etc.

7. Keeping in view the allegation levelled in the FIR (Supra) and the fact the a specific role has been attributed to the petitioner, this court does not find it to be a case for grant of pre-arrest bail. So far as the plea raised by counsel for the petitioner with respect to there being no need for custodial interrogation is concerned, the same is also misconceived. Apex Court in the case of **Gurbaksh Singh Sibbia vs. State of Punjab, 1980(2) SCC 565** held that the same cannot be a consideration for grant of pre-arrest bail observing as under:-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application

for anticipatory bail....”

8. Likewise while reiterating the law laid down in **Gurbaksh Singh Sibbia's case (supra)** Apex Court in **Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1** held that :-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

9. As per settled law in **C.B.I vs. Anil Sharma, 1997(7) 187** there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail. Investigation at this nascent stage cannot be belayed.

10. The nature and the seriousness of the allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

11. In view of the aforesaid circumstances, this does not appear to be a fit case to grant extra ordinary relief of anticipatory bail to the petitioner. Consequently, the same is dismissed.

12. Needless to say nothing recorded hereinabove should be construed as expression on merits of the case.

(PANKAJ JAIN)
JUDGE

03.11.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No