

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-58828-2022 (O&M)
Date of Decision:- 06.1.2023

Nitin Kumar

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. L.S.Mann, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana,
assisted by Inspector Surender Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered against him vide FIR No.450 dated 02.10.2020, Police Station City Tohana, District Fatehabad, under Sections 120-B, 420, 467, 468, 471, 198, 201 of Indian Penal Code, 1860, Sections 12(1) (B) of the Passports Act, 1967 and Section 66 (c) and 66 (d) of the Information Technology (Amendment) Act, 2008.
2. At the time of issuance of interim bail the following order was passed on 16.12.2022:

“This is a petition seeking anticipatory bail in case of FIR
No. 450 dated 2nd October, 2020, under Sections 120-B,

420, 467, 468, 471, 198, 201 of Indian Penal Code, 1860, Sections 12(1)(B) of the Passports Act, 1967 and Section 66 (c) and 66 (d) of the Information Technology (Amendment) Act, 2008, registered at Police Station City Tohana, District Fatehabad.

2. As per the case set up the accused in connivance with each other on the basis of forged documents were facilitating and procuring passport for the applicants. The documents were forged to hide criminal antecedents of the applicants. The role attributed to the petitioner is that he participated in preparing fake Identity cards and helped one Pardeep for procuring a passport on fake documents.

3. The reliance is placed on the fact that co-accused were granted anticipatory bail by this Court. The parity is claimed with co-accused Neeraj Razdan on 11th October, 2022.

4. The following order was passed by this court on 11 th October, 2022 in CRM-M-31573 of 2022:-

“This petition is filed seeking anticipatory bail in case of FIR No. 450 dated 2.10.2020 under Sections 120-B, 420, 467, 468, 471, 198, 201 IPC, 1860 and Section 12(1)(B) of the Passports Act, 1967 and Section 66(c) 66(d) of the Information Technology (Amendment Act) 2008, registered at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioner claims parity with co-accused Mandeep Singh, who was granted interim anticipatory bail on 1 st September, 2022. He further submits that the allegations against the co-accused was that Rs.3,00,000/- was transferred in his bank account whereas there is no such allegation against the petitioner.

On 1st September, 2022, following order was passed in CRMM31573 of 2022:

"This is a petition seeking anticipatory bail in case of FIR No. 450 dated 2.10.2020, under Sections 120-B, 420, 467,

468, 471, 198, 201, 474 of Indian Penal Code, 1860, Sections 12(1)(B) of the Passports Act, 1967 and Section 66 (c) and 66 (d) of the Information Technology (Amendment) Act, 2008, registered at Police Station City Tohana, District Fatehabad.

As per the case set up the accused in connivance with each other on the basis of forged documents were facilitating and procuring passport for the applicants. The documents were forged to hide criminal antecedents or original identity of the applicants. The role attributed to the petitioner is that he introduced the applicant-Pardeep to co-accused Makhan Singh, Nitin and Neeraj for procuring passport for him as he was not an Indian national. Petitioner was named in a disclosure statement and as per the allegations, Rs.3,00,000/- was transferred in his bank account.

Learned counsel for the petitioner submits that the petitioner was named in disclosure statement. There is no allegation that he played an active role for procuring the passport or for forging the documents. He submits that the prayer for anticipatory bail was rejected by the Sessions Court on the ground that Rs.3,00,000/- are to be recovered. He on instructions submits that the petitioner is ready to join investigation and reserving his right to defence will deposit Rs.3,00,000/- with the Trial Court/Illaqa Magistrate. He relies upon the fact that co-accused in this FIR have been granted anticipatory bail.

Learned State counsel opposes the prayer and submits that the recovery of Rs.3,00,000/- is to be made. He further submits that coaccused are to be arrested.

Without commenting upon the merits of the case, considering the nature of allegations against the petitioner and that petitioner has offered to deposit Rs.3,00,000/- and after deposit of the amount as on date nothing is to be recovered from petitioner, as an interim measure, the petitioner is granted interim bail subject to deposit of Rs.3,00,000/- and to his joining investigation within fifteen days from today. In the event of arrest, he shall be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is directed to join the investigation as and when

called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 2nd November, 2022.

In the meantime, State to file status report."

Learned State counsel on instructions from SI Surinder Kumar, though opposes the prayer but is not in a position to distinguish the case of the petitioner vis-a-vis the co-accused so far as grant of interim anticipatory bail is concerned.

Without commenting upon the merits of the case and on the basis of parity of the petitioner with the co-accused so far as grant of interim anticipatory bail is concerned, the petitioner is granted interim bail subject to joining investigation within a week. In the event of arrest, he shall be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is are directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

List on 2nd November, 2022."

5. Learned State counsel on instructions from SI Surinder Kumar, though opposes the prayer but is not in a position to distinguish the case of the petitioner vis-a-vis the co-accused so far as grant of interim anticipatory bail is concerned.

6. Without commenting upon the merits of the case and on the basis of parity of the petitioner with the co-accused so far as grant of interim anticipatory bail is concerned, the petitioner is granted interim bail subject to joining investigation within a week. In the event of arrest, he shall be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the Investigating Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

7. List on 6th January, 2023. "

3. Learned counsel for the petitioner submits that in order to show his *bonafides* petitioner is willing to furnish FDRs to the tune of Rs.30,000/- before the trial Court.
4. Reply by way of affidavit of Mr. Subhash Chnader, Deputy Superintendent of Police, Hq. Fatehabad has been filed. The same is taken on record.
5. Learned State counsel, upon instructions from Inspector Surender Kumar has submitted that the petitioner has joined investigation and is not required for any custodial interrogation though the amount of Rs.15,000/- which had been transferred to his bank account has not been recovered so far.
6. In view of the aforestated position wherein the petitioner has joined investigation and he is not stated to be required for any custodial interrogation, the petition is accepted and the interim directions issued by this Court vide order dated 16.12.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
7. The petitioner in accordance with his offer shall deposit an amount in respect of Rs.30,000/- before the trial Court within 4 weeks from today. Upon such amount being deposited, the trial Court/Illaq Magistrate shall get the same invested in FDR in a nationalized Bank with the specific direction to the Bank Manager concerned not to entertain any request for encashment except an order of the Court. In

case, the petitioner is found innocent and is acquitted and such acquittal attains finality, he shall be entitled to the proceeds of the FDR. However, in case he is found guilty and his conviction attains finality, the amount shall stand forfeited to State. The trial Court shall ensure that aforesaid condition is prominently recorded somewhere on the file so that the same does not escape from notice of the Presiding Officer who finally decides the matter.

06.01.2023

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No