

CRM-M-41-2024 (O & M)
(293)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-41-2024 (O & M)
Date of decision:24.01.2024

Prince Singla @ Prince Petitioner
V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Rajesh Goyal, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

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.664 Dated 30.10.2023 Under Sections 381, 411 IPC registered at Police Station Old Industrial, Panipat, District Panipat.

2. The present FIR came to be registered at the instance of Naveen Bansal and reads as under:-

“To The SHO Sahib Police Station Model Town Old Industrial Area. Subject: Regarding registration of incident of theft in factory. Sir, I Naveen Bansal s/o Ram Narayan Bansal, am resident of 285/R Model Town, Panipat. Company is on the name of Heritage Export Co. Batra Colony. And our joint Company Native Home Trendz is in Kuldeep Nagar. Our one godown is situated in H/33 Industrial Area. On 26.10.2023 Prince has been directed to bring 12 Bags of thread from Godown to Company. Prince by taking along Sachin in a preplanned manner apart from 12 Bags also took seven boxes of thread from another godown and sold the seven boxes to

CRM-M-41-2024 (O & M)
(293)

::2::

some other person while returning to Company from Godown and bring 12 Bags to Company. On coming to know when we enquired then Sonu told me about all this incident. That Sachin, Prince and Aman are employee of this company. And they despite being employee of the Company has sold the goods of the company. Legal action be taken against them. They all three persons are employee of the company with us. This theft has been committed by them around 4 PM. They earlier also committed many thefts. Naveen Bansal 9812580018 Dated 30.10.2023”.

3. On 31.10.2023, accused Sachin, Aman and Mordhyaj (Scrap Dealer) were arrested. Sachin got recovered Rs.4,000/- out of the sale of cotton thread and accused Aman got recovered Rs.11,000/- from the room of Sachin. Thereafter, Section 411 IPC was added. Accused Mordhyaj got recovered 76 *daris*, 4.5 sacks of threads and 06 printed *daris*.

On 16.11.2023, the Register of employees was taken into possession.

On 20.12.2023, the complainant-Naveen Bansal got recorded his supplementary statement to the effect that on checking of his factory, he had found that 50 bags of threads had been stolen for which he suspected Prince son of Somnath.

On 26.12.2023, Prince son of Somnath was joined in the investigation and arrested. He got recovered Rs.25,000/- out of a total Rs.70,000/- received by him as his share.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. In fact, he was a daily wager and was not a permanent employee of the factory. The entire

CRM-M-41-2024 (O & M)
(293)

::3::

recovery had already been effected from the co-accused. There was no past history of the loss of any item in the unit/factory of the complainant and this allegation had only been levelled now during the course of investigation. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 23.01.2024 which is taken on record. While referring to the said reply, he alongwith the counsel for the complainant contend that the petitioner was duly named in the FIR alongwith his co-accused. The allegations against the petitioner are that he, in the garb of 12 boxes of thread took the 07 additional boxes and sold the same. The investigation had also revealed that this was not the first incident committed by the petitioner. He alongwith his co-accused Sachin and Aman had committed the said acts earlier as well thereby causing a huge loss to the owners of the factory. They used to sell the proceeds of their crime to co-accused/Mordhyaj. As the offence was *prima facie* established and the recoveries were to be effected from the petitioner, he was not entitled to the concession of anticipatory bail.

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

7. The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***', has 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*

CRM-M-41-2024 (O & M)
(293)

::4::

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***

CRM-M-41-2024 (O & M)
(293)

::5::

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.”

8. A perusal of the FIR and the record of the case would show that *prima facie*, the petitioner and his co-accused have committed the offences in question and though, some recoveries have been effected from the co-accused, but to recover the remaining stolen articles and to assess the exact loss caused to the complainant, the custodial interrogation of the petitioner is certainly necessary.

9. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

10. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

January 24, 2024
sukhpreet

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