

CRM-M-553-2024 (O & M)
(211)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-553-2024 (O & M)
Date of decision:29.01.2024

Gopal Soni Petitioner

V/s

State of U.T., Chandigarh and anr. ...Respondents

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pankaj Bali, Advocate,
for the petitioner.

Mr. Munish Bansal, Public Prosecutor,
for U.T., Chandigarh,
with Mr. Saksham, Advocate and
Ms. Sukhmani, Advocate.

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.45 dated 29.05.2023 under Sections 420, 465, 467, 468, 471 IPC, registered at Police Station North, Chandigarh.

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

“To, The Register General, Punjab and Haryana High Court, Chandigarh. Subject:- Complaint against Sh. Gopal Soni, Advocate, P/2300/2017, Practicing Advocate at Honble Punjab and Haryana High Court at Chandigarh, for committing cheating, forgery and fraud on the Name of Present Registrar

CRM-M-553-2024 (O & M)
(211)

::2::

General Sh. Sanjeev Berry Ji, by issuing me a fake/forged appointment letter for the post of Superintendent in the Punjab and Haryana High Court, Chandigarh. Respected Sir, 1. That my name is Dinesh Kumar son of Sh. Surender Kumar r/o Thakur Bani Singh Ki Gali, Lohar Bazar, Bhiwani. That Gopal Soni Advocate, P/2300/2017, presently practicing at Punjab and Haryana High Court at Chandigarh. The said Gopal Soni Advocate, me since my childhood as were friends from class 6th. We were having good friendly relations since long back. Since 2017, the said Gopal Soni Advocate, is residing in Chandigarh. In the year of 2017, he told me that he has been appointed a Law Researcher in the High Court of Punjab and Haryana, at Chandigarh. And he was getting the salary of Rs.90,000/- he also told that my power is as equal as Judges are having, thereafter as and when we talked the said Gopal Soni used to say I will settle you also with the help of some official of High Court. Thereafter In February, 2021 he met me at Bhiwani, and informed me that I have been selected for Haryana Judicial Service, and soon I will be appointed on the post of Judge, in the Punjab and Haryana High Court, at Chandigarh. He assured me that since you are my childhood friend I will settle you also in Chandigarh. 2. That in the second week of March he again approached me at Bhiwani, and he informed me that some post are vacant in the Punjab and Haryana High Court, at Chandigarh and those are going to be filled by a secret selection process. He bring an application form for me by saying that these application forms are not available on the official website as these posts are secret. These posts are meant for the Judges for settle their own persons. That on the assurance given by said Gopal Soni Advocate, I filled the said application form, he also asked me to pay Rs. 15 lac for the said post. As he told me that you will get the salary @ Rs.2.25 Lac per month. The said Gopal Soni Advocate, told

CRM-M-553-2024 (O & M)
(211)

::3::

me that the Present Registrar General Sh. Sanjeev Berry, is my known, and surely you will get the job. He also told me that you will have to pay 50% amount in advance and 50% after joining on the said post of Superintendent. 3. That since the said Gopal Soni Advocate, known to me since childhood, so I believed on him and I paid him Rs. 2 lac through IMPS, on 31 March, 2021, in his SBI account. He assured me that you will be issued joining letter soon in the month of July, 2021. Thereafter, since the month of August, 2021, I tried and asked many times to said Gopal Soni Advocate, to provide me any proof/documents for the said post and my joining. But the said Gopal Soni, Advocate gave me fake assurance that these are secret posts and you need not to worry. Till November, 2021, the said Gopal Soni Advocate, not provide me any proof/document with regard to said post. But by that time, I have paid multiple times to said Gopal Soni, Advocate, through Mobile apps or through bank transfers. Finally, on 12th November 2021, I received a joining letter on my whatsapp which was send by said Gopal Soni, Advocate, and the same was signed by Sh. Sanjeev Berry, the Registrar General, Punjab and Haryana at Chandigarh. I received the same joining letter on my email also from the mail of from a fake email ID (Later on I came to Know that the same was created by the said Gopal Soni, Advocate) 4. That thereafter the Gopal Soni Advocate, gave me some different Phone numbers of a person he claimed that these numbers are of the person who is working with Mr. Berry, Registrar, he is helping us to get the job and again he demanded for money from me in order to make two Demand Drafts, of Rs.6000/- and Rs.10616/-. The said Gopal Soni, Advocate told me that you will have to deposit some fees in shape of DDs to get the joining. I paid him but despite of my repeated request, I never received copies of those DDs. 5. That in the Month of December 2021 the said Gopal Soni, Advocate gave me a Phone no. to get

CRM-M-553-2024 (O & M)
(211)

::4::

the joining but after verification I found that the no. 88476-15501, which the said Gopal Soni, Advocate provided me is the another Phone no. of Gopal Soni himself. Where Gopal Soni demanded Rs. 10000/- to open a Salary account and Rs. 15000/- for advance rent as High Court provide him accommodation for residence after joining on the said post of Superintendent. During this period, the said Gopal Soni Advocate, offered me again that I can adjust you on the post of Reader with the help of Mr. Berry, Registrar General and he demanded Rs. 7.5 lacs extra for this. Upon this I told to said Gopal Soni Advocate, that I have no money to pay as you always made false/fake promises. Once the said Gopal Soni Advocate, received the money he never replied my phone calls. Till date I paid to said Gopal Soni, Advocate, Rs.22 lacs approximately (Which I am having the details) on his fake assurance on the name of Mr. Sanjeev Berry Ji, Registrar General, Punjab Haryana High Court, at Chandigarh.6. That the said Gopal Soni, Advocate, gave a third Phone No. 83600-33790, claiming that this is New No. of that person namely Mr. Jain, who is helping us to get the job, he also told me that Mr. Jain (he was introduced to me by My senior Vijay Kumar Jindal) but when I inquired about this no. then it is foun that this no, also belongs to said Gopal Soni, Advocate. As he used to cheat peoples by these kind of methods. In the month of August 2022, the said Gopal Soni, Advocate again demanded money of Rs.1.2 lac on the pretext of to submit the same in the High Court treasury and then they will deposit my due salary and Gopal assured me that he will provide me the deposit slip. I again, paid in a good faith Rs. 80000/- to Gopal Soni. But till date I have not received any receipt. 7. That as the said Gopal Soni, told me that he joined as a Judge in the High Court, so in order to meet him, I came at Punjab and Haryana High Court at Chandigarh. On inquiry , I came to know that he is not a

CRM-M-553-2024 (O & M)
(211)

::5::

Judge in the High Court but he is an Advocate, here and working in the office of Senior Advocate Sh. Vijay Kumar Jindal. 8. That thereafter I called him many times but he never answered my calls. I paid mostly through mobile app, bank transfer, and online mode in the account no. of Gopal in SBI BANK AND HDFC BANK, by taking loans from various mobile applications and credit cards. Now, I have no money to repay my loans/liabilities towards the creditors. Now I have been harassed and humiliated by the bank officials. 9. That I am a victim of impersonation, fraud, forgery committed by the said Gopal Soni Advocate, on the name of Sh. Sanjeev Berry, The Registrar General, Punjab and Haryana High Court, Chandigarh. Therefore, it is respectfully prayed that a Criminal case be registered under the Indian Penal Code against the Gopal Soni, Advocate, P/2300/2017, and his advocacy license be also ordered to be cancelled, as he has played fraud, claiming himself to be the Judge and on the Name of the Registrar General, Punjab and Haryana High Court, Chandigarh. It is also requested that I am in state of shock as the said Gopal Soni looted my entire savings not only this I am under the burden of many loans through Mobile applications and Credit Cards and now I am not able to repay it. So justice may kindly be provided to me by getting my money back. I shall be grateful to you. Note:- A copy of the fake appointment letter is attached along with other relevant payment details. Dated:- 05.09.2022 (Dinesh Kumar) 98121-58621”.

3. During the course of investigation, the complainant produced a forged appointment letter given to him by the petitioner. The petitioner had sent the appointment letter as a Superintendent of the High Court by way of Whatsapp, E-mail and physically under the name of Mr. Sanjeev Berry, the then Registrar General of this Court. This appointment letter was got

CRM-M-553-2024 (O & M)
(211)

::6::

verified from the concerned Branch of this Court and was found to have been forged.

The complainant had also provided a print-out of E-mails dated 06.12.2021 and 13.01.2022 which were received by the complainant from E-mail id supdt.phh@gmail.com on his (complainant's) E-mail id kumar321dinesh@gmail.com assuring the complainant regarding his selection for the post of a Special Secretary/Reader's line.

The petitioner had informed the complainant that the E-mail had been received from the Punjab and Haryana High Court. Investigation with regard to the verification of the E-mail id supdt.phh@gmail.com is going on.

A request letter for verification was sent to the Office of the Registrar General, High Court of Punjab and Haryana for the verification of the appointment letters dated 12.11.2021 and 21.02.2022 which had been given to the complainant by the petitioner. In reply to the said letter, the Office of the Registrar General has clearly stated that the letters dated 12.11.2021 and 21.02.2022 are fake.

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. In fact, the petitioner had been planning to purchase a house at Zirakpur and for the said purposes had struck a deal with one Varun Sharma for a sum of Rs. 52.50 lacs. Varun Sharma introduced him (petitioner) to a private financier Ashu Jain, who demanded Rs.10,00,000/- as down payment to get sanctioned the loan for the remaining amount. However, despite having paid Rs.11,45,000/- to Varun Sharma and Ashu Jain, the loan had not been

CRM-M-553-2024 (O & M)
(211)

::7::

advanced nor was the money refunded. An FIR No.23 dated 16.03.2023 had been registered at the instance of the petitioner against Varun Sharma, etc. In fact, the petitioner had borrowed an amount of Rs.8,00,000/- referred to in the FIR from the complainant for the purchase of the said property and had also returned Rs.1,25,000/- through bank transactions. The present FIR had been registered by the complainant in connivance with Kanhiya Soni, Advocate, his (petitioner's) brother as the petitioner had solemnized a marriage which was not to the liking of his family members. The forged and fabricated documents had been prepared by the complainant and not by the petitioner. There was a delay of about 10 months in the filing of the instant complaint leading to the registration of the FIR which shows that the petitioner had been falsely implicated. Though, the complainant had been able to prove the transactions of only Rs.09-10 lacs but the FIR suggests that an amount of Rs.22,00,000/- had been paid. As the petitioner was a young Lawyer and was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.

5. The learned counsel for the respondent-U.T., Chandigarh, on the other hand, has filed a reply dated 25.01.2024 by way of an affidavit of DSP Gurmukh Singh, CPS, SDPO Central, which is taken on record. While referring to the said reply, he contends that the custodial interrogation of the petitioner is required to verify the E-mail address from which the fabricated mails were sent to the complainant, to recover the mobile phone used in the commission of the offence, to recover various other electronic devices such as laptop, PC, Printer by which the forged appointment letters were prepared and also to recover the money cheated from the complainant. Even

CRM-M-553-2024 (O & M)
(211)

::8::

otherwise, from the contents of the FIR and the investigation conducted so far, the offence was *prima facie* established which did not entitle the petitioner to the grant of 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 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***

CRM-M-553-2024 (O & M)
(211)

::9::

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.”

8. In the instant case, a perusal of the FIR would reveal clear and specific allegations against the petitioner of having cheated the complainant on the pretext of providing him a job in this Court. For the said purpose, multiple fake E-mails and documents purportedly issued by the Registrar General of this Court have been provided to the complainant by the petitioner to show that he had been provided employment by the Court. Thus, the offence stands *prima facie* established. Further, the recovery of various electronic devices such as the mobile phone, laptop, PC and printer

by which the mails were sent and forged appointment letters were prepared

CRM-M-553-2024 (O & M)
(211)

::10::

are to be recovered. Therefore, his custodial interrogation 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 29, 2024
sukhpreet

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