IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(102)

CRM-M-2972-2024 (O & M)
Date of decision:09.08.2024

Virender Kumar Sharma @ Veeru …... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rohit Mittal, Advocate,
Mr. Fateh Saini, Advocate,
Ms. Gaganpreet Kaur, Advocate, for the petitioner.

Mr. Parveen Bhadu, Asstt. A.G., Haryana.

Mr. Mayank Yadav, Advocate, for the complainant.

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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.67 dated 13.04.2023 under Sections 406, 420, 467, 468, 471 and 34 IPC registered at Police Station Nizampur, District Mohindergarh.

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

> *To Superintendent of Police, at Mahendargarh District Narnaul. Subject :- Application for taking legal action against the accused Aditya and Virender alias Veeru for preparing fake documents and embezzling Rs. 22 lakhs by passing off the fake documents as original. Sir, the application is as follows: 1. That I, Naresh Yadav, son of Shri Shishram Yadav, permanent resident of Bamanwas Nau, Tehsil Nangal Chaudhary, District Mahendargarh and am preparing for a Government job. 2. That Virender alias Veeru, son of Hiralal Shastri, resident of Ward No.1, Near Shyam Mandir Behrod, Rajasthan*

Mob.09587231111, has been coming to the temple of Shyam Baba situated in our village for the last 10-12 years and our family as well as family of Virender are having good speaking and visiting terms. Taking advantage of the situation, Virender told me that his relative Aditya alias Chhotu, son of Rajneesh, resident of House No. 490/35, Janta Colony, Rohtak, is working as a Section Officer in University Grant Commission, whose mobile number is 7419070691, who gets a job on the post of a clerk by taking money. If you give me Rs 11,00,000/- (Eleven Lakh Rupees) then I will get you a job on the post of a clerk in Delhi University. Believing him, my family members was agreed to pay Rs 11,00,000/- (Eleven lakh rupees) in exchange for the job.3. That Virender made me talk to Aditya and as per his instructions, 1 sent all my documents to Rohtak Aditya and on 19.07.2021 gave Rs 5,50,000/- in cash to Virender alias Veeru at our house in village Bahamanwas in the presence of Suresh Sarpach and Bishwas Sarpanch and gave a cheque No. 671101 dated 26.07.2021 of Rs 5,50,000/- of Sarva Haryana Gramin Bank from my father's account. 4. That in August 2021, Virender and Aditya called me and got my medical examination done and made two demand drafts in the name of University Grant Commission, Delhi and sent me a paper to get the police verification done, which I got the police verification done and sent it to both the above. On 28.11.2021, the above two made me stay at Mark Hotel, Rohtak and Virender alias Veeru was also staying with me and from there they got my online interview done through Google Meet application and said that your performance was not very good, if you want to get selection, it will take some more money and we will arrange the interview again. Hearing this, my father immediately transferred Rs 1,70,000 to Virender's account (account number 18391530003370 HDFC Bank). 5. That on 03.12.2022 the above mentioned. Virender and Aditya made me to stay at Lagan Hotel, Rohtak and then got my online interview done from there on 06.12.2022 and assured of joining but after a few *days they stopped picking up my calla and after repeated calls, one day Aditya called and said that there was some problem. If you have Rs 9,00,000/- (nine lakh rupees) more, then I can get your joining confirmed. As per his instructions, on 14.03.2022, I gave Rs.2,00,000/- in cash and Rs 2,00,000/- transferred to Aditya's account (Account No. 920010021965977 of Axis Bank) through RTGS from Vishwas Sarpanch's account and 50,000/- through online payment of Rs from Ratan's account and Rs. 1,00,000/- was given through Google Pay from Ranjeet's account and Rs. 3,50,000/- was given in cash at Maina Tourism Rohtak. 6. That on 05.04.2022, Aditya called me to Delhi University South Campus Delhi for joining and got the ID card form filled there and an appointment letter order no. 037132/2022 issued by Registrar, Delhi University. Even after this, the above two kept postponing my joining date by making some excuse or the other and on 02.05.2022, Aditya gave me the second appointment letter order number 051 TG issued by HOD, English Department, DU. And I was asked to open an account for salary in SBI Bank and I opened the account as per the instructions, prepared all the joining documents and account passbook PDF file and mailed it on the mail ID given by Aditya. On 17.05.2022 Aditya issued a letter number 029/2022 issued by Add Secretary (admin), DU to me to take charge and said that your joining is confirmed from 23.05.2022 and salary will start. 7. That on 23.05.2022, the outside of D.U. office, Aditya got the service book and all the joining formalities completed and said that you will have to do field work for 6 months and you will only coordinate with me for the work. The above mentioned Aditya kept telling me the field work on phone and I kept delivering and receiving the parcel as per his instructions. On 06.06.2022, Rs 13,700/- was credited to my account as salary, after that my salary stopped coming. When I asked Aditya, who said that there is some problem in document verification, it will be resolved soon till then I transfer the money for expense to you and in between Aditya* *transferred some money to me as expense. 8. That after Aditya and Virender switched off their phones, when I reached DU South Campus Delhi with my family on 20.02.2023 to find out, I came to know that no section officer in the name of Aditya is working, nor I was recruited through the joining letter given by him. All the documents given by him were forged and fabricated (All the fake documents given by the accused are attached with the application). Therefore, by presenting the application, I request that the above two Aditya and Virender alias Veeru prepared fake documents with the intention of cheating me. And with the intention of deceiving and cheating those forged documents, knowing that they were fake documents, they cheated and defrauded me by presenting them as original documents and defrauded and cheated me by presenting them as documents prepared by a public servant in his official capacity and thereby usurped 22 lakh rupees. Strict action should be taken against them and I should be given justice. Date Signature Naresh Yadav.*

3. During the course of investigation, the co-accused Aditya @ Chhotu was arrested and disclosed that he alongwith the petitioner had committed the offence in question after obtaining a huge amount from the complainant. The fictitious documents were also recovered at the instance of the accused.

It transpired during the course of investigation that it was the petitioner who had introduced the complainant to Aditya @ Chhotu by saying that Aditya @ Chhotu was a Section Officer in the UGC and could provide a job in lieu of money. On these assertions of the petitioner, the complainant had given cash, cheque and various amounts through banking transaction but no job was provided to him (complainant), though, he was handed over forged and fabricated joining letters of English Department, Delhi University.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There was no evidence that the money has been received by the petitioner and as per the FIR, the allegations, if any, pertain to the co-accused/Aditya. 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 and the counsel for the complainant, on the other hand, while referring to the reply dated 13.02.2024 contend that the petitioner was, in fact, the main accused. It was the petitioner who was well-known to the complainant and had misled the complainant stating that his relative Aditya @ Chhotu who was working as a Section Officer in the UGC could provide a Government job to him (complainant) in exchange for money. It was the petitioner alongwith his co-accused who had got the medical examination of the complainant done ostensibly for the purposes of obtaining a Government job. The petitioner had accompanied the complainant to Mark Hotel, Rohtak for the purported purpose of an Online interview. Thus, it was established beyond doubt that the petitioner and Aditya @ Chhotu had both cheated the complainant of a huge amount of money and therefore, 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 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.*
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> *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.*"**

8. A perusal of the FIR and the material collected during investigation would *prima facie* establish that the petitioner and his co-accused duped the complainant of a huge money on the pretext of providing him a Government job. Despite taking a sum of Rs.22 lacs, no Government job was provided to him. On the contrary, fake appointment/joining letters were given to the complainant. As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

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

August 09, 2024
sukhpreet

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