(208)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11765-2024
Date of decision :24.07.2024

POOJA JANGIR

... Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Navdeep Singh Dhillon, Advocate
for the petitioner.

Mr. Parveen Aggarwal, DAG, Haryana.

Mr. Sumit Sangwan, Advocate
for the complainant.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.15 dated 29.01.2024 (Annexure P-1) registered under Sections 406 and 420 IPC at Police Station Budhra, District Charkhi Dadri.

2. The present FIR came to be registered at the instance of Vikas son of Charan Singh, Sonu son of Anoop and Parveen son of Mahender Singh and the same reads as under:-

> *To, the Superintendent of Police, Charkhi Dadri, Subject: Complaint for taking legal action against 1) Ravish son of Ishwrar Singh, (2) Pooja wife of Ravish son of Ishwar Singh, residents of Kanji, Tehisl Surajgarh, District Jhujhnu, Rajasthan for usurping money under the pretext to send abroad and*

threatening to kill. Sir, it is requested that 1) The complainants are residents of village Mandhi Piranu, Tehsil Badhra, District Charkhi Dadri and we are law abiding citizens. 2) That since the above said accused has relation in our village, therefore they used to visit at village Mandi Piranu and the accused met with the applicants and accused have told the complainant that we are doing the work of providing jobs in Singapore and if you want to do job at abroad then inform us. Therefore the complainants asked from them that what is procedure? They said that we will Lake Rs. 10-12 lacs per person providing job and permit/Visa. 3) That for we will give you work on asking of accused, the complainants have got prepared our work Visa. 4) That complainant Vikas has given Rs. 10.00 lacs on 04.05.2022, complainant Parveen has given Rs. 12.00 lacs in the month of July, 2022, and complainant Sonu had given Rs. 10.00 lacs to the accused in the month of October, 2022. 5) That the accused had sent the complainant to Singapore where they introduced us to some criminal persons and they told the complainants that we have our criminal gang, you have to do work for us. The relations of this gang in abroad and they had also snatched passports. The complainants have refused to do work for the Criminal gang then the said persons have harassed and tortured us, somehow, the complainants came back to India and on returning back, the complainants have approached the said accused and told them that what you have done with us, if you cannot provide job for us then return our amount then complainant told us that you have checked our power that with which type of persons are connected

> *with with us. You came back by saving yourself, and I you demand money from us or inform about it to anybody, then we will manage to kill you. The accused have flatly refused to return our money back. In this way, the accused have committed cheat and fraud with complainant and usurped money from us under the pretext to providing us job in abroad and now on demanding money back, they are threatening us. Therefore you are requested by filing present complaint that strict legal action be taken against the accused persons and our money be returned back to us. we shall be thankful to you. Sd/ Vikas son of Charan Singh Mobile No. 9828808084, Sd/- Sonu son of Anoop, Mobile No. 8053816900. Sd/- Parveen son of Mahender Singh residents of Mandi Piranu, Tehsil Badra, District Charkhi Dadri."*

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as she was the wife of the main accused Ravish son of Ishwar Singh. In fact, she had filed a complaint against Ravish to the SSP, SAS Nagar on 10.01.2024 (Annexure P-2) under Sections 354, 376, 383, 384, 406, 420, 506, 370, 370A IPC and Section 66E and 67 IT Act. One of the allegations levelled in the said complaint is that her husband Ravish had tricked her into opening a bank account in which he made many persons deposit money on the pretext of sending them abroad. As the petitioner herself had been misled by Ravish and she was ready and willing to join investigation, she was entitled to the concession of anticipatory bail.

4. On the hand, the learned State counsel while referring to the reply dated 30.03.2024 contends that during investigation it was found that Vikas had been cheated to the tune of Rs.6,32,000/- by the petitioner and her husband. Sonu son of Anoop Singh was cheated to the tune of Rs.6,88,200/- by Ravish and his brother Ravinder. Parveen had been cheated to the extent of Rs.11,46,306/- by the petitioner and her husband. Certain other amounts had also been paid in cash. During investigation, the statement of another victim Neeraj son of Narender was recorded and he had also stated that he had paid sum of Rs.2.50 lakhs to Pooja (petitioner) on different dates and Rs.2.50 lakhs along with Rs.5,34,000/- to Ravinder, the brother of Ravish on two occasions. The statement of Sonu son of Chanderbhan was recorded as per which the petitioner and her husband had taken away a sum of Rs.5,80,918/- and Rs.1,80,000/- respectively on the pretext of providing him a job in Singapore. The said statements were corroborated by the bank account details of the petitioner and her husband Ravish and those of the victim. Thus, it was evident that the petitioner in collusion with her husband was running a racket to cheat youngsters. Pursuant to the filling of the complaint dated 31.10.2023 (on the basis of which the FIR had been registered), a Panchayat had been convened by victim Vikas and Sonu son of Anoop Singh on 05.11.2023 in which the petitioner had admitted that she had been paid sum of Rs.5,69,500/- and assured the Panchayat that she would return the said amount by 05.01.2024 failing which the

victims would be at liberty to initiate legal action against her. Therefore, the defence of the petitioner that she had been misled into opening bank accounts which had been misutilized by her husband was incorrect. As the offence was *prima facie* established and the investigation was to be taken to its logical conclusion, the custodial interrogation of the petitioner was certainly necessary.

5. On the other hand, the learned counsel for the complainant contends that the complaint on the basis of which the instant FIR was registered is dated 31.10.2023. It was only when the instant complaint was filed that the petitioner with a view to set up a counter version filed the complaint on 10.01.2024 (Annexure P-2) levelling allegations against her own husband Ravish. The allegations levelled in the complaint (Annexure P-2) appear to be bizarre and do not seem to be correct. Therefore, as the petitioner had received a huge amount of money in her bank account, the offence was *prima facie* made out against her and therefore, she 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 Live Law (SC) 870*** 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 would reveal that a huge amount of money has come into bank account of the petitioner at the instance of the complainants and other victims who were cheated into parting with their money on the pretext of providing them jobs abroad. The defence of the petitioner that she had been misled by her husband appears to be an afterthought. The complaint was filed by the present complainants on 31.10.2023. On 05.11.2023, a Panchayat was conveyed (Annexure R-1) in which the petitioner admitted to have received money from two of the victims and assured that she would return the same. Instead of returning the money by 05.01.2024, she has gone and instituted a complaint (Annexure P-2) against her husband Ravish under Sections 354, 376, 383, 384, 406, 420, 506, 370, 370A IPC and Section 66E and 67 IT Act on 10.01.2024 which clearly seems to be an attempt to save herself from

liability. Later of course, based on the complaint dated 31.10.2023, the instant FIR came to be registered on 29.01.2024. Therefore, not only is the offence *prima facie* established against the petitioner but her custodial interrogation is necessary to take the investigation to its logical conclusion. Thus, the petitioner is not entitled the concession of anticipatory bail.

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

10. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to adjudicate upon the matter on the basis of the evidence led before it uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

24.07.2024
JITESH

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