IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(298)

CRM-M-14949-2024 (O & M)
Date of decision:06.05.2024

Ankit …... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Neeraj Yadav, Advocate,
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Mukesh Rao, Advocate,
for respondent No.2.

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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.326 dated 05.10.2023 under Sections 406, 420 IPC registered at Police Station City Rewari, District Rewari.

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

"To the Superintendent of Police, Rewari Complaint against the criminals about the crime of criminal conspiracy and taking action against the gang in the name of getting a job and embezzling Rs 13,80,000 from the public. Sir, the victim submits as follows that 1. That the victim is an educated person. He is a young man and has done BSC and MSC and he is resident of Rewari. 2. That the accused No. 1-Ankit is a resident of village Garhi Mahendragarh and is posted in DEPUTY

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COMMISSIONER OFFICE JHAJJAR, Jhajjar and was known to the victim and he often used to say that he has a whole group which provides jobs to people and in this link he told me that there is a post of SUB INSPECTOR in Haryana, which he told that I will get the job by paying Rs.10,00,000 rupees, which I transferred Rs.55000 rupees to his account and then he got my form filled and then he gave 1 Gave Rs. 25,000 in cash but when he asked for more money, I said that I will give the remaining money when the offer letter comes. This incident happened in December 2021. After that I asked several times. He said that there is a ban on jobs right now. When the ban opens, I will get it done immediately. 3. That in August, Praveen, a resident of Rambas, brought the victim who said that he wanted to get a job, which the victim introduced him to the accused Ankit, who was also involved in this along with 2/3 other people in his office. That I will get a job in the Income Tax Department in Kanpur, Uttar Pradesh, on 22-9-2022, Praveen kept ten lakh rupees at my house and on 23.09.2022, accused Ankit came and in front of Pankaj resident of Kankarwali Rewari took Rs. 10 lacs and then accused Ankit and Sanjay POSTED AT DC OFFICE In Jhajjar, Praveen was told that he would be taken to Kanpur UP, in that regard, Arjun and Rahul of Rohtak were also involved with him. The said accused Ankit took Praveen to Kanpur and showed him to the INCOME TAX OFFICE and said that he would get a job here, which was There he got MOB NO. 8528051266, Vikas MOB 7376630692 Vikas MOB 9896553084 and another person MOB 8198966020 were also found. All of them said that part payment has come and after receiving the remaining money, appointment letter will be issued which Praveen was convinced that he is going to get the job, then the accused named above given account of a person named SANDEEP which was 30873135894, in which Praveen had transferred Rs. 2,00,000 from SBI BANK PILOT

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> *CHOK on 2-11-22 but till date neither he got the job nor the money has been returned. Accused Ankit, Sanjay MOB 8708174652 Arjun, Rahul, Sumit, Vikas, Vikas, Sandeep etc. are involved in a criminal conspiracy and they have also sent many messages about getting jobs to them. Action should be taken against the accused's gang which is spread on a large scale. The investigation of the said case should be done directly by SIT or CIA or DSP level officers so that such a big gang can be exposed. The accused has cheated many people and many officers are also involved with them, hence there are such officers for investigation who are free from fear, it will be very kind of sir, legal action should be taken ROHIT SAINI Sd/- Rohit Saini, son of Ashok Saini, resident of Sati Colony, Rewari Haryana MOB 9416592110".*

3. During the course of investigation, the complainant produced the screen shots of the mobile app showing transfer of money to the petitioner alongwith Whatsapp chats. The bank details of the other accused were obtained alongwith the call detail records.

4. The statements of Pankaj Kumar son of Luxmi Narain and Parveen Kumar were also recorded to substantiate the allegations that a huge amount of money had been paid in cash to the petitioner.

5. The petitioner was initially granted the concession of interim bail on an undertaking being furnished by him that he would deposit a sum of Rs.13,80,000/-. However, he backed out from his undertaking. Be that as it may, the Court of Sessions Judge, Rewari, vide order dated 01.02.2024 (Annexure P-3) while granting him the concession of anticipatory bail directed him to deposit a sum of Rs.13,80,000/- in the form of an FDR with any nationalized bank/post office.

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6. As the petitioner did not deposit the said amount, an application was moved for cancellation of the bail granted to him vide order dated 01.02.2024 and his bail stood cancelled by the Court of Sessions Judge, Rewari vide order dated 14.03.2024 (Annexure P-4).

7. Thereafter, the instant petition for the grant of anticipatory bail came to be filed by the petitioner.

8. When this matter came up for hearing before this Court, the same grounds as had been raised by the petitioner during the course of the hearing of his anticipatory bail petition before the Sessions Court were raised. The petitioner was directed to join the investigation. The matter was adjourned to 23.04.2024 on which date, the petitioner sought an adjournment by way of filing of an adjournment slip. When this matter came up for hearing on 02.05.2024, an undertaking was given that a sum of Rs.5,00,000/- out of Rs.13,80,000/- would be deposited in the form of an FD as mentioned in the order dated 01.02.2024 passed by the Court of Sessions Judge, Rewari.

9. The case was adjourned to 06.05.2024.

10. The learned counsel for the petitioner contends that a sum of Rs.5,00,000/- out of a sum of Rs.13,80,000/- already stands deposited but he is unable to deposit the rest of the amount immediately. He contends that the allegations levelled in the FIR baseless. In fact, the petitioner had only availed a friendly loan of Rs.45,000/- and an amount of Rs.10,000/- was demanded subsequently. The FIR in question had been registered after a significant delay. The posts of Sub Inspector were advertised in the year 2021 and the last date for the submission of the Online application was

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02.07.2021. Therefore, the prosecution version that the complainant was induced to pay money in December 2021 was unbelievable. He, therefore, contends that the petitioner was entitled to the concession of anticipatory bail.

11. The learned counsel for the complainant-respondent No.2, on the other hand, while referring to his reply dated 21.04.2024 contends that the present petition for the grant of anticipatory bail was not maintainable. The petitioner had been granted the concession of anticipatory bail on the condition that he would deposit an FDR for a sum of Rs.13,80,000/- but he did not deposit the same and an application was moved for cancellation of his bail. The said bail granted vide order dated 01.02.2024 (Annexure P-3) was cancelled by a subsequent order dated 14.03.2024 (Annexure P-4). Instead of challenging the order of cancellation of bail, the petitioner had preferred the instant petition for the grant of anticipatory bail. Merely because the petitioner was ready and willing to deposit a sum of Rs.13,80,000/- in the form of an FDR would not be sufficient to grant him the concession of anticipatory bail as the petitioner was a Government servant, the offence was *prima facie* established from the statements of witnesses, CDRs, bank details and Whatsapp chats and his custodial interrogation was necessary to take the investigation to its logical conclusion. Even otherwise, during the course of investigation, Sections 467 and 468 IPC had been added because forged letters of appointment had been handed over by the petitioner and his co-accused to the complainant party. He, therefore, contends that as the present petition was not maintainable and the investigation was to be taken to its logical conclusion,

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the prayer of the petitioner for the grant of anticipatory bail was liable to be rejected.

12. The learned counsel for the State while referring to the reply dated 29.04.2024 contends that during the course of investigation, the statements under Section 161 Cr.p.C. of Pankaj Kumar son of Luxmi Narain and Parveen Kumar were recorded to the effect that a sum of Rs. 10,00,000/- had been paid to the petitioner for obtaining a job. The petitioner provided an interview reporting letter/training letter of recruitment which was apparently a forged one because of which Sections 467 and 468 IPC were added in the present case. The contention of the petitioner that the complainant had only given him a friendly loan was baseless as the Whatsapp chats between the petitioner on the one hand and the complainant on the other would show that the petitioner had admitted to have received a substantial sum of money. The custodial interrogation of the petitioner was required to ascertain the names and credentials of his co-accused. Even otherwise, as the offence was *prima facie* made out and the investigation was to be taken to its logical conclusion, the petitioner was not entitled to the concession of anticipatory bail and the present petition was liable to be dismissed.

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

14. 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*

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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***

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> ***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.***"

15. An examination of the facts and circumstances of the case as well as the record would reveal that the petitioner is working in the office of the Deputy Commissioner, Jhajjar and therefore, he is a Government servant. The allegations against him are of receiving a sum of Rs.13,80,000/- from the complainant and another with a view to provide them Government jobs. A number of accused named in the FIR are alleged to be involved in the criminal conspiracy alongwith the petitioner. The investigation conducted so far would show that the petitioner has accepted a huge sum of money on the pretext of providing a job to the complainant and others. Forged interview reporting letters/training letters of appointment have also been provided by the petitioner to the complainant party for which Sections 467/468 IPC have been added. Merely because the petitioner is ready and willing to deposit a sum of Rs.13,80,000/- and had deposited a sum of Rs.5,00,000/- does not entitle him to the grant of anticipatory bail as the offence is *prima facie* established and the investigation is to be taken to its logical conclusion. Even otherwise, in offences of the present kind, an

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accused cannot claim anticipatory bail as a matter of right by pleading that he is ready and willing to deposit the entire defalcated amount.

16. 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

May 06, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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