IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(209)

Date of decision: 30.07.2024

(1) CRM-M-20067-2024 (O & M)

Satyanarayan .... Petitioner

V/s

State of Haryana ...Respondent

(2) CRM-M-25754-2024 (O & M)

Pardeep Kumar .... Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aditya Sanghi, Advocate, (in CRM-M-20067-2024) and Mr. Ravi Kant Kagra, Advocate (in CRM-M-25754-2024) for the petitioner(s).

Mr. Naveen Kumar Sheoran, DAG, Haryana

Mr. Narender Pal Bhardwaj, Advocate, for the complainant in both the cases.

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JASJIT SINGH BEDI, J. (Oral)

This order shall dispose of two criminal miscellaneous petitions i.e. CRM-M-20067-2024 and CRM-M-25754-2024 as they arise out of the same FIR.

2. The petitioner-Satyanarayan (in CRM-M-20067-2024) and the petitioner-Pardeep Kumar (in CRM-M-25754-2024) seek the grant of anticipatory bail under Section 438 Cr.P.C. in case bearing FIR No.10 dated 19.01.2024 under Sections 420, 467, 468 and 471 IPC registered at Police Station Industrial Area Bhiwani, District Bhiwani, Haryana.

3. For the sake of convenience, the facts are being taken from the petition bearing No. CRM-M-25754-2024.

4. The present FIR came to be registered at the instance of Narender Dalal and reads as under:-

> *"SP OFFICE BHIWANI DIARY NO 337-PG DATED 01.09.2023. To the Superintendent of Police, Bhiwani. Subject:- Application for initiating legal action against 1. Satyanarayan son of Shri Ved Parkash resident of Village Devrala, Tehsil and District Bhiwani having Mobile Number 70277777257, 9812104154, 2. Rahul Mobile Number 8774631508, 8697520782 resident of New Delhi, 3. Pardeep Resident of Village Tigdana Tehsil and District Bhiwani having Mobile number 7808910368.*
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> *Sir, it is requested that I Narender Dalal son of Shri Ramdarshan Dalal a Resident of Village Nathuwas, Tehsil and District Bhiwani and request you that I know above named accused persons since the year 2013, one day meeting of me and Pardeep was held then he said to me that I shall get you job in Railways without filling form, I said to him nothing as such happens then he said to me that first of all I shall get your work stated thereafter you may give money, he had demanded sum of Rs. 9,00,000/- (Rupees Nine Lacs only) I said to him that*

if as such happens then let us see, he said give sum of Rs. 2,50,000/- in advance and balance of Rs. 7,00,000/- after getting job. On dated 14.07.2021 1 transferred sum of Rs. 50000/- on dated 16.07.2021 sum of Rs. 20000/-, on dated 17.01.2021 sum of Rs. 30000/-, on dated 20.07.2021 sum of Rs. 1,50,000/- Company Gajraj Info Pvt. Ltd.. Account 1215002100007245. On dated 22.07.2021 received from rrenreindianrailway.gov.in a to his Number mail was for document processing. Thereafter, Pardeep introduced me with Satyanarayan and said to me that he is our company Gajraj Info Pvt. Ltd., which is at Civil Mall Bhiwani and he is the one looks after work ahead of this. Satyanarayan said to me you can also be medically unfit, therefore, you may get your local medical thereafter we shall see, on dated 22.07.2021 again in the evening a mail was received from getting medical examination. I get conducted my medical examination from outside. On dated 28.07.2021, I received mail from above mentioned e-mail ID. That I have to reach at Northern Railway Centre Hospital Basant Lane Arm Bagh Connaught place New Delhi. During that time I received phone call of accused Rahul, who met me on the gate of the Hospital itself, after some time some unknown person took my blood sample and get medical fitness form from me. On dated 04.08.2023 I received mail from above mentioned E-mail ID regarding Medical Certificate. After some days I received phone call of Rahul that I received only Rs. 50000/- of you, that is the reason your work is processing slow, Then on dated 20.08.2021 sum of Rs. 49000/-, on dated 24.08.2021 sum of Rs. 30000/-, on dated 28.08.2021 sum 1,50,000/- I *transferred in the account of above mentioned Company Gajraj Info Info Pvt. Ltd., On dated 26.08.2021 upon my email ID a mail was received regarding despatch of joining letter. On dated 28.08.2021, I received joining letter at my house by post in which it was mentioned about joining date as 15.09.2021 at D.R.M. New Delhi. Thereafter on dated 13.09.2021, I transferred sum of Rs. 50000/ in account number 4101135000010417 in Karur Vasya Bank Laxmi Nagar Delhi which was the account of Rahul, on dated 13.09.2023 I transferred sum of Rs. 50000/- in the account of the company Gajraj Info Pvt. Ltd., on dated 14.09.2021 sum of Rs. 1,50,000/- in the account of Rahul, On dated 14.09.2023 transferred sum of Rs.50000/- in the account of the company Gajraj Info Pvt. Ltd., on dated 14.09.2021 sum of Rs. 50000/- in the account of Rahul and sum of Rs. 50000/- in cash on dated 14.09.2023 were sent to above named accused person and were given to a person namely Sohan, on dated 16.09.2023 sum of Rs. 15000/- were transferred in the account of above named accused Pardeep in account number 005801589991, on dated 16.09.2023 to Pardeep and on dated 23.09.2023 sum of Rs. 25000/- were transferred in the account of above named accused Rahul. On dated when I reached at D.R.M. New Delhi for joining then the at the gate told me earlier, a person met me and took me in the office and in a corner of the office joining form was get filled from me and took copies of basic education. Who said that tomorrow is Holiday, you may come day after tomorrow on dated at 17.09.2021 at old Delhi Railway Station and visit there and report to Station Master. And one person of us shall met outside* *the Station and shall make you understand the work. On the same day a phone call was received from a person namely Amit from 8276032019 who said to me your work is going on correctly, there is no need to worry. On dated 17.09.2023 when I reached Old Delhi Railway Station, then a person met me who obtained my signatures upon 30-35 pages and said to me that your joining has been done, you may go home and from tomorrow onwards come here for your duty. On next day when I went to my duty then neither I got any duty nor did even anyone pick up my phone. Then I felt that there is something fishy, then I went to Police Post old Delhi Railway Station and I narrated everything to them then they told me that it appears that a fraud has been committed with you, you may lodge a complaint. Then after 6/7 months when Pardeep and Satyanarayan didn't give me money, then I lodged a complaint against them at C.M. Window but since Satyanarayan asked to return money in one month so I withdrew said complaint. But till date they have not return my money. Therefore, it is requested to you that my money may be get back to me and strictest legal action may be initiated against all of them. Thanking You,*

SD NARENDER. Applicant Narender Dalal son of Shri Ramdarshan Dalal Resident of Village Nathuwas, Tehsil and District Bhiwani Narender Dalal son of Shri Ramdarshan Dalal Resident of Village Nathuwas, Tehsil and District Bhiwani. Mob. 9625041650, 9311266024 dated 22.08.2023".

5. During the course of investigation, the fake joining letter sent by the accused persons to the complainant by post and the memo of mail regarding obtaining the job, screen shots of the details regarding amounts which had been transferred by the complainant into the bank accounts of the accused, screen shots relating to the conversation regarding getting a job and account details of the accused persons including the firm-GajRaj Info Pvt. Ltd. were obtained. As per record, the Additional Director of the firm, was the wife of the petitioner-Pardeep Kumar, namely, Manju. A sum of Rs.5,29,000/- was found to be deposited in the account of Manju, wife of the Pardeep Kumar. The WhatsApp chats were found to have taken place between Satyanarayan (petitioner in CRM-M-20067-2024) and the complainant regarding getting him a job with Northern Railway, New Delhi and transactions of money.

On the basis of the investigation, Sections 467, 468 and 471 IPC were added on 17.03.2024.

It was found that a sum of Rs.8,90,000/- had been transferred by the complainant in the accounts of the accused-petitioners and their family members.

6. The learned counsels for the petitioners contend that the petitioners have been falsely implicated in the present case. In fact, a different complaint had been given against other persons. The monetary transactions did not pertain to the obtaining of a job but were on account of repayments made by the complainant to the petitioners for earlier amounts

due. As the case was of a civil nature and the petitioners were ready and willing to join the investigation, they were entitled to the concession of anticipatory bail.

7. The learned counsel for the State, on the other hand, has filed a reply dated 26.07.2024 in CRM-M-25754-2024 which is taken on record. He while referring to the said reply as well as the status report dated 14.05.2024 (in CRM-M-20067-2024) contends that the evidence collected so far clearly establishes the culpability of the petitioners. They alongwith their family members had received a huge amount of money from the complainant by way of banking transactions for the purposes of providing him a job. Neither was the job provided to the complainant nor was the money returned. Therefore, the offence was *prima facie* established against the petitioners. As the investigations was to be taken to its logical conclusion, the custodial interrogation of the petitioners was certainly necessary and therefore, they were not entitled to the concession of anticipatory bail.

8. The learned counsel for the complainant contends that the petitioner-Satyanarayan had undertaken to return an amount of Rs.5,29,000/- and therefore, his arrest had been stayed by this Court vide order dated 23.04.2023. However, as the said amount was not forthcoming, the interim order had been vacated on 28.05.2024. The investigation conducted so far clearly established that a huge amount of money had been paid by the complainant to the accused and their family members. Various documents, and WhatsApp chats clearly showed that a *prima facie* offence was made

out. As the job had not been provided to the complainant nor was the money refunded to him, the petitioners were not entitled to the concession as prayed for.

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

10. 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.*
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> *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.*** *"*

11. A perusal of the material on record would *prima facie* establish the commission of offences alleged against the petitioners. They received more than Rs.8,00,000/- by way of banking transactions from the complainant with a view to provide him a job. Neither was the job provided nor was the money returned to him. Therefore, as the offence stands *prima*

facie established and the investigation has to be taken to its logical conclusion, the custodial interrogation of the petitioners is certainly required.

12 In view of the above, I find no merit in the present petitions. Therefore, the same stand dismissed.

13 However, it is made clear that the observations made in this order are only for the purpose of deciding these bail applications 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

July 30, 2024
sukhpreet

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