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(286)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision :17.07.2024

AMAN KUMAR

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. PKS Phoolka, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

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.207 dated 29.07.2023 (Annexure P-1) registered under Sections 419/420 IPC, 1860 at Police Station Civil Lines Bathinda, District Bathinda.

2. The present FIR came to be registered at the instance of Gurdeep Singh son of S. Harjit Singh and the same reads as under:-

“Copy of application No. 534/BTR/ 2023 dated 19.07.2023. To respected Director General of police, Bathinda, Bathinda Range, Bathinda. Subject: strict legal against for committing cheating and fraud. Sir, it is requested that I Gurdeep Singh son of S. Harjit Singh Dhillon, and am resident of Kothi No. 5335, Block -F, Aerocity, SAS Nagar, Mohali. I and my two brothers have joint share of 11 Kanala 05 Marla land at Kothe



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Ramsar, Bajakhana Road Barnala. I went to the Patwari to get the Fard of my land and I found that Intkal No. 10700, Rapat No.194 and my 1/3 share of land has been attached from account number 300/428 area rakba 11-05 vide order dated 18.12.2019 passed by Ld. Court of Mr. Gurmeet Tiwana, CJM, Bathinda. In this regard, on taking the record from the Patwari, it was found that the case number 20 dated 25-02-2011 under Sections 22 N.D.P.S. Act, 1985, registered at police station Sadar Bathinda of the three accused 1) Raj Kumar alias Raju alias Bandari son of Bansi Lal resident of Gali No.03, Pratap Nagar, Bathinda 2) Karan Mehta alias Gaurav son of Ram Narain Mehta, resident of House No. 1854, Mohalla Sikandarpura, Bathinda 3) Raj Kumar alias Raja son of Jai Prakash, resident of Gali No. 10/5, Bala Ram Nagar, Bathinda, has been issued bail by one of the persons, who has imposed a charge on my land and put another fictitious person in my place and given surety in the bail. In this trial, the accused have been sentenced to undergone 10 years in prison, whom is one of person had been declared as proclaimed offender the Hon'ble Court of Sh. Gurmeet Singh Tiwana, CJM, Bathinda my share of land has been attached. In this regard, separate action is being taken by me in the Hon'ble court to stop the attachment of the land. I or my brothers never issued any surety to the above or any other person/accused of taking land numbers. Therefore, it is clear that while filling the bail bond of the above-mentioned accused, someone used my fake I.D./wrong record Filled up fake surety bond of other persons/accused in the above suit by giving wrong record. According to the above, the



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case should be registered and legal action should be taken against accused persons and justice should be given to me. Yours faithfully. Sd/- Gurdeep Singh son of S. Harjit Singh Dhillon.”

3. After registration of the FIR in question, the investigation was carried out and during the course of investigation, the statement of Ashok Kumar Ex-MC was recorded, wherein he stated that on 13.11.2019, he was present at the District Courts Bathinda. Two persons approached him (Ashok Kumar), who stated that they were Gurdeep Singh and Sukhpal Singh and were residents of his (Ashok Kumar) locality. As proof, the said persons showed their Aadhar cards having their photographs. The said persons requested him (Ashok Kumar) to identify them as surety in the Court of Ld. Chief Judicial Magistrate, Bathinda in FIR No.20 dated 25.02.2011 under section 22 NDPS Act, Police Station Sadar, Bathinda, while furnishing surety bonds for accused Raj Kumar @ Raju @ Bandri. Believing the words of the said persons to be the residents of his locality he (Ashok Kumar) acceded to the request of the accused-petitioner and co-accused and identified them while furnishing surety bonds in the Court of Ld. Chief Judicial Magistrate, Bathinda. The said Ashok Kumar disclosed the real name of the person impersonating himself to be complainant Gurdeep Singh as accused "Surinder Singh" and similarly accused/petitioner "Aman Kumar", who impersonated himself to be Sukhpal Singh. On the basis of the aforesaid statement, the accused/petitioner and co-accused Surinder

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Singh were nominated in the FIR in question and DDR No.55 dated 30.08.2023 was entered in this regard.

During the course of investigation, it has surfaced that the accused namely Raj Kumar @ Raju @ Bandri, Karan Mehta @ Gaurav and Raj Kumar @ Raja were convicted in the FIR No.20, dated 25.02.2011, under section 22 NDPS Act, Police Station Sadar, Bathinda and sentenced to undergo imprisonment for 10 years and to pay fine to the tune of Rs.1,00,000/-. Thereafter, accused Raj Kumar @ Raju @ Bandri approached the Hon'ble Court and prayed for suspension of sentence. The Hon'ble Court allowed the suspension of aforesaid accused, while dealing with the CRM-12574-2019 in CRA-S-5286-SB of 2014, vide order dated 01.10.2019, with the specific condition for furnishing bail bonds and surety bonds to the satisfaction of the concerned Chief Magistrate. Judicial Magistrate/Duty.

In compliance with the said order, the surety bond on behalf of accused Raj Kumar @ Raju Bandri was furnished on 13.11.2019, before the Ld. Chief Judicial Magistrate, Bathinda. However, at the time of furnishing surety in the Court of Chief Judicial Magistrate, Bathinda, the accused Surinder Singh stood as surety impersonating to be as Gurdeep Singh (the complainant) and the accused/petitioner impersonated to be as Sukhpal Singh (identified to surety Surinder Singh as Gurdeep Singh) and they furnished surety of accused Raj Kumar @ Raju @ Bandri, submitting the Jamabandi of property belonging to the complainant to the extent of 3 Kanals and 15 Marlas



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and the Ld. Chief Judicial Magistrate attached the 1/3rd share of the aforesaid property measuring 11 Kanals 5 Marlas, originally owned by the complainant.

4. The learned counsel for the petitioner contends that he has been falsely implicated in the present case. Be that as it may, as the case was based on documentary evidence and the petitioner was ready and willing to join investigation, he was entitled to the concession of anticipatory bail.

5. On the other hand, the learned State counsel contends that the investigation conducted so far clearly established the culpability of the petitioner who impersonated one Sukhpal Singh and furnished surety for accused Raj Kumar @ Raju @ Bandri. In addition, the petitioner was a habitual offender with two cases of a similar nature arising out of FIR No.05 dated 17.01.2020 under Sections 193, 196, 419, 420, 465, 468, 471, 120-B IPC Police Station City Rampura, Bathinda and FIR No.228 dated 06.09.2022 under Sections 420, 465, 467, 468, 471, 120-B IPC Police Station Civil Lines, Bathinda. As the allegations were extremely grave and the offence *prima facie* established, 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 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself



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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 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***



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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 record would reveal that the petitioner along with Surinder Singh stood surety for accused Raj Kumar @ Raju @ Bandri and submitted the Jamabandi of the property belonging to the complainant. Therefore, the offence is *prima facie* established against him. Even otherwise, he is a habitual offender with two other cases of a similar nature registered against him. In this situation, the question of grant of anticipatory bail to the petitioner does not arise as it is a clear attempt to interfere with the administration of justice on the part of the petitioner.

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

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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

17.07.2024
JITESH

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