

CRM-M-27281-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27281-2024
Reserved on: 18.07.2024
Pronounced on: 25.07.2024

Karnail Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ravi Chadha, Advocate
for the petitioner.

Mr. Gurpartap S. Bhullar, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
59	27.04.2024	Mukerian, District Hoshiarpur	420 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.
3. The general contention of the petitioner is that the custodial investigation is neither required nor would serve any purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The facts of the case are being taken from the reply dated 12.07.2024, which reads as under:-

“2. That it is submitted that the complainant Balwinder Singh, Daljit Singh, Bhajan Singh and Ramesh Kumar submitted application No.437-SSP dated 04.03.2024 to SSP, Hoshiarpur against the petitioner regarding committing fraud of Rs.31,00,000/- on the pretext of getting employed Punjab Police and other Government jobs.

3. That it is submitted that the aforesaid application was marked for inquiry to Superintendent of Police (Investigation)

Hoshiarpur. On this, the Superintendent of Police (Investigation) Hoshiarpur conducted inquiry into the matter and found that Balwinder Singh has paid Rs.11 Lakh out of which Rs.05 Lakh were paid through two cheques dated 02.07.2021 and 01.09.2021 of HDFC Bank for getting his son recruited in Punjab Police. Daljit Singh paid Rs.07 Lakh to the petitioner for getting his son recruited in FCI. Bhajan Singh paid them Rs.07 Lakh for getting his son recruited as Guard in Forest Department. Ramesh Kumar paid them Rs.06 Lakh for getting recruited his son as Security Guard in Forest Department and his daughter as Clerk in Punjab National Bank. In total Rs.31 Lakh were received by the petitioner. In order to return the amount of Balwinder Singh, a cheque dated 26.02.2024 of Rs.05 Lakh was issued by the petitioner Karnail Singh, which was dis-honoured. Further regarding amount received from Daljit Singh, petitioner Karnail Singh executed hand written note for return of Rs.07 Lakh alongwith blank cheque. Thereby the petitioner committed fraud of Rs.31 lacs with the complainants on the pretext of recruiting in Punjab Police and other government jobs. Therefore, the Superintendent of Police (Investigation), Hoshiarpur recommended to register a case U/s 420 IPC against the petitioner and sent the inquiry report to the SSP, Hoshiarpur for further action. Consequently, the SSP, Hoshiarpur directed the SHO Mukerian to register a FIR and to investigate the case. Accordingly FIR No.59 dated 27.04.2024 u/s 420 IPC was registered at P.S. Mukerian, District Hoshiarpur against the petitioner.”

5. Petitioner’s counsel seeks bail on the ground that there is a delay of three years in informing the police and infact it was a commercial dispute which has been now given a concoction and allegations are absolutely false and baseless. By making reference to para 3 of the petition, counsel further submits that petitioner was made a scapegoat for the offence committed by master mind namely Sarwan Kumar and petitioner himself is a victim at the hands of Sarwan Kumar. Petitioner’s next ground is mentioned in para 4 of the petition, which reads as follows:-

“That the alleged occurrence as mentioned in the FIR took place on dated 02/07/2021 and the FIR got registered on dated 27/04/2024. It is apt to mention here that the present FIR has been lodged only after the initiation of proceedings by the petitioner for the complaint under Section 138 of Negotiable Instruments Act as legal notice dated 18.03.2024 sent to Sarwan Kumar son of Harbans Lal and thereafter complaint under Section 138 of Negotiable Instrument Act has been moved against Sarwan Kumar son of Harbans Lal on dated 25/04/2024 under section 138 of Negotiable Instrument Act which has been listed on 29.04.2024 and fixed for kind consideration on the summoning of the accused. For the kind perusal of this Hon'ble court the copy of legal notice

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dated 18.03.2024 and zimni order dated 29.04.2024 are annexed as Annexure P-2 & P-3 respectively."

5(a) Petitioner's counsel further submits that petitioner is a first offender which points towards his innocence.

6. Counsel for the State opposes the bail and refers to the evidence collected against the petitioner as mentioned in the reply dated 12.07.2024 and the same reads as under:-

"That it is submitted that Balwinder Singh has paid Rs.11 Lakh out of which Rs.05 Lakh were paid through two cheques dated 02.07.2021 and 01.09.2021 of HDFC Bank for getting his son recruited in Punjab Police. Daljit Singh paid Rs.07 Lakh to the petitioner for getting his son recruited in FCI. Bhajan Singh paid them Rs.07 Lakh for getting his son recruited as Guard in Forest Department. Ramesh Kumar paid them Rs.06 Lakh for getting recruited his son as Security Guard in Forest Department and his daughter as Clerk in Punjab National Bank. In total Rs.31 Lakh were received by the petitioner. In order to return the amount of Balwinder Singh, a cheque dated 26.02.2024 of Rs.05 Lakh was issued by the petitioner Karnail Singh, which was dis-honoured. Further regarding amount received from Daljit Singh, petitioner Karnail Singh executed hand written note for return of Rs.07 Lakh alongwith blank cheque. Daljit Singh has also prepared a video of the petitioner Karnail Singh giving assurance to get his son recruited in government job. His voice recording is also with them. The Pan Drive containing video of the petitioner Karnail Singh is annexed as Annexure R-1. There are photographs of the petitioner counting currency note after receiving the same from the complainant, also taken on record by the inquiry officer during the inquiry. The photographs of the petitioner are annexed as Annexure R-2.

8. That it is submitted that there are serious allegations against the petitioner that the petitioner committed fraud with the complainants of Rs.31 lacs on the pretext of recruiting in Punjab Police and other Government job. The custodial interrogation of the petitioner is required for recovery and proper probe of the present case in case the bail application of the petitioner is dismissed by this Hon'ble Court."

6(a) Counsel for the State submits that in case, bail is dismissed they want custodial interrogation of the petitioner.

7. An analysis of above said arguments would lead to the following outcome.

8. Although there is a delay of three years in filing the FIR, it is for the reason that petitioner was able to befool the complainant and police on one pretext of other and inquiry report also points towards petitioner's involvement and there is ample evidence against the petitioner i.e. issuance of cheque by him and his hand written note qua

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return of Rs.7 lacs, which corroborate the allegations made by the complainant. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

9. In Sumitha Pradeep v Arun Kumar CK, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... 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 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 anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

10. In the background of the allegations and in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

25.07.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.