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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-30791-2024 (O&M)
Date of decision: 01.07.2024

Gulwinder Singh**...Petitioner**

Versus

State of Haryana**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Kartar Singh, Advocate
for the petitioner. (Through video conferencing)

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 112, dated 17.02.2023, under Sections 120-B, 471, 474, 468 of IPC (Sections 467, 420, 417 of IPC and Section 66-D of I.T. Act added later on) at Police Station City Fatehabad, District Fatehabad.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of order dated 17.02.2023, passed by Ms. Nidhi Beniwal, Judicial Magistrate First Class, Fatehabad, while she was dealing with an application for grant of bail filed by one Maya. Benefit of bail was granted to the said Maya, subject to her furnishing personal and surety bonds to the extent of Rs. 50,000/-. One Ravi Kumar appeared as surety to the said Maya and he had been identified by the present petitioner. The said Ravi Kumar had appended an affidavit giving

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details of his property and residence and also an undertaking that he had never stood surety in any other case. The concerned official of the Court of Ms. Nidhi Beniwal, while checking the credentials of the surety in CIS Surety Module, found that above said Ravi Kumar had prepared fake Aadhar Cards and had given surety in other cases also while representing himself as such. As a false affidavit had been filed by the said Ravi Kumar with a view to cheat the Court, therefore, the matter was brought to the notice of the concerned police station for taking action in the matter. Initially, a case under Sections 120-B, 471, 474, 468 of IPC was registered. Investigation proceedings were initiated. The petitioner, who had identified the above said Ravi Kumar and whose name had been actually found to be Ramesh Kumar, was also nominated as accused. Offences under Sections 467, 420, 417 of IPC and Section 66-D of I.T. Act were added later on. The investigation is underway.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The above said Ravi Kumar, who had been identified by him, is a native of his village and the petitioner had no knowledge that his real name is in fact Ramesh Kumar and that he was having fake Aadhar Cards in the name of Ravi Kumar. The petitioner is a respectable inhabitant of the village being a previous member of the Gram Panchayat. There was no motive on his part to commit any offence to cheat the Court. He is ready to join investigation. No useful purpose would be served by detaining the petitioner in custody. Therefore, it is argued that the petition deserves to be allowed and the petitioner deserves to be given benefit of pre-arrest bail.

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4. *Per contra*, learned State counsel, who has advance notice of the petition, has argued that there are serious and specific allegations against the petitioner, who identified the co-accused Ramesh Kumar while fully knowing that he was disguising himself as Ravi Kumar. It is not the version of the petitioner that he was an illiterate person and could not know that co-accused was having fake Aadhar Cards and impersonating him as Ravi Kumar. It is argued that the petitioner had identified the co-accused Ramesh not only in one but in two cases and this fact showed that he in connivance with co-accused had been forging documents to cheat the Courts by creating false evidence. It is further argued that the custodial interrogation of the petitioner is required to unearth the truth and, therefore, urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. The petitioner, in connivance with co-accused Ramesh Kumar, who by disguising himself as Ravi Kumar stood surety not in one case but in two criminal cases, by submitting surety bonds before the different Courts, is alleged to have committed the offence of cheating, forgery and aiding the co-accused in impersonating himself. The allegations against the petitioner are quite serious in nature. The well settled proposition of law is that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses. The powers under Section 438 of Cr.P.C. are to be

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exercised in extraordinary and sparing circumstances. More so, custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It has also to be seen that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. It is also a matter of discretion to grant or not to grant pre-arrest bail. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstance entitling the petitioner to seek concession of pre-arrest bail has been made out rather his custodial interrogation is required for thorough investigation in the matter by the police. Accordingly, finding no merit, the petition is dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

01.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No