(103)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34187-2024
Date of decision : 02.08.2024

HARPREET SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Atul Goyal, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

Mr. Harnoor Singh Chaddha, Advocate
for the complainant.

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JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.0018 dated 01.03.2024 (Annexure P-1) registered under Sections 419, 120-B, 465, 467, 468, 471 and Sections 66(C) and 66(D) of Information Technology Act, 2000 at Police Station Shimlapuri, District Ludhiana.

2. Complaint Nos.PGD 38832 and 35391 dated 25.09.2022 were filed by Manjit Kaur wife of Mohan Singh and the same read as under:-

> *"A complaint numbered PGD 38832 Complaint No. 35391 dated 25.09.22 by Manjit Kaur wife. Mohan Singh, Resident of House No: 1511/45, Street No: 8,*

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Harkrishna Nagar, New Shimlapuri, Ludhiana Mobile No: 97797-62276 In 2021, by the accused woman on stating the people of her neighborhood that a scheme of giving money has run by Center Govt, by misusing the applicant's PAN Card No. MGEPK8966K by registering GST/UIN: 03MGEPK8966K1ZN on the PAN card regarding running a company by an unknown person, including investigation report and documents regarding register a case through post By hand, HC Harmanjit Singh No: 4028/Ludhi: received at Police Station, which is as following: "To The, Hon'ble Police Commissioner, Ludhiana. Subject: Application regarding that by the accused woman of our neighborhood in 2021, by stating the people of her neighborhood that the payment scheme has been run by the Center Govt. By misusing applicant's PAN Card No.: MGEPK8966K, by registering GST/UIN:03 MGEPK8966K1ZN on PAN Card by an unknown person and running a company. Sir, I, the applicant, requesting as following: 1. That I am a domestic lady. 2. That the accused woman of our locality mentioned above told all the residents of the locality that the Center Govt. has run a scheme for housewives in which they will give 2000 rupees to every woman. But we villagers believed this woman of our village and gave her a copy of our PAN card, Aadhaar card and she kept all the documents of the villagers with her. 3. That now on the date 04.08.2022 we found out about 60-70 people from all the Mohalla that whoever had given their documents to that woman misused those and gave the GST numbers of all the residents of our Mohalla to someone and had sold and fake companies are running

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> *on the names of all the villagers. Due to this misfortunate incident, all the residents of our village and I also are very afraid that if there may arise any situation of money debit/credit etc. Therefore, your are requested that keeping the above facts as the main, these persons have cheated by telling the scheme of giving money by Center Govt., so action should be taken against them and these fake companies should be banned from our GST numbers. You will be very obliged. Date: 6-8-2022 Applicant/-Manjit Kaur Wife S. Mohan Singh."*

3. During preliminary investigation, it was revealed that complainant-Manjit Kaur and many other individuals from her locality had given photocopies of their PAN Cards and Aadhar Cards to a woman in lieu of the aforementioned scheme. Subsequently, the complainant received a recovery notice from the GST Department from which she came to know that a firm named PC Enterprises (having its office at Shop No.2552, Gali No.3, Satguru Nagar, Ludhiana) had been opened using her Aadhar Card and PAN Card.

During review of records procured from the GST Department regarding the aforementioned firm, PC Enterprises, it was discovered that the GST application/registration of the said firm was conducted using mobile phone Nos.88726-14355 and 95922-37734 and email IDs overseas6728@gmail.com and manjitkaur11111786@gmail.com. Thereupon, the SAF/CAF of the mobile phone Nos.88726-14355 and 95922-37734 were obtained from the

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service providers. Mobile No.88726-14355 was registered in the name of Ankit Kasaudhan, resident of Gonda, UP and to activate the aforesaid number, an OTP was sent to Mobile No.98569-90003 registered in the name of Sunny, resident of Ludhiana. Mobile No.95922-37734 was registered in the name of Jangir Singh, resident of Mandi Gobindgarh, Fatehgarh Sahib. The email ID manjitkaur11111786@gmail.com was created using Mobile No.95922-37734. The other email ID, overseas728@gmail.com was operated using mobile No.7009795241 (registered owner Rajesh Kumar), mobile No.7087740849 (registered owner Anita Devi) and mobile No. 8054673946 (registered owner Lakhbir Singh).

During the course of the enquiry, a complaint (PGD No.38820 dated 25/09/2023) from Pritam Singh and another complaint (PGD No.38823 dated 25/09/2023) from Narinder Singh were received wherein similar allegations were levelled regarding the taking of their PAN Cards and Aadhar Cards by a lady. During the preliminary investigation into the aforesaid complaints, it was found that by using Aadhar Card and PAN Card of Pritam Singh, a firm named PS Enterprises (registered office of the said firm as per the record was Subhash Nagar Extension, New Delhi) was opened and GST registration was obtained by using Mobile No.7837430336 (registered owner Raghbir Singh). To register mobile number, Mobile Nos.7837430336, 9041262551 was used (registered owner Lakh Raj). The email ID used

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for GST registration of PS Enterprises was krishna876780@gmail.com and the said email ID was created using mobile No.9115475073 (registered owner Santhok Singh). While registering phone No.9115475073, the mobile number used was 7889078837 (registered owner Vinod Kumar Yadav). As per the CDRs, there were regular contact calls between 7889078837 (registered owner Vinod Kumar Yadav), 9115475073 (registered owner Santhok Singh) and 7087740849 (registered owner Anita Devi) establishing that the aforesaid mobile numbers were used by individuals committing GST fraud.

By using the Aadhar Card and PAN Card of Narinder Singh, a GST firm named NS Enterprises (Subhash Nagar Extension, New Delhi) was registered. For GST registration of NS Enterprises, Mobile No.7837428381 (registered owner Arshdeep Singh) was used. An alternative mobile number used while activating the said number was 6280534229 (registered owner Amritpal Singh). The email ID used in the registration of NS Enterprises was gst2568office@gmail.com and the said email ID was created using Mobile No.9888135837 (registered owner Santokh Singh). The alternative mobile number was given while registering the said number was 7889078837 (registered owner Vinod Kumar Yadav).

Thereupon, on the basis of the preliminary investigation, the present FIR No.18 dated 01.03.2024 under Sections 419, 420, 406, 467, 468, 471 and 120-B IPC and Sections 66(C) and 66(D) of the IT

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Act came to be registered wherein the individuals namely, Ankit Kasodhan, Sunny, Jangir Singh, Rajesh Kumar, Anita Devi, Lakhbir Singh, Raghbir Singh, Lakh Raj, Santokh Singh, Vinod Kumar Yadav, Arshdeep Singh and Amritpal Singh were arrayed as accused.

During the course of investigation on 10.04.2024, Sumit Kumar was implicated as an accused and apprehended. During questioning, he disclosed that Harpreet Singh @ Bajwa (petitioner) and Gurmeet Singh @ Ricky (bail dismissed vide order dated 22.05.2024 passed in CRM-M-24805-2024) were frequent visitors to Harpal Singh (accused) who was one of the masterminds. It was further revealed that Harpreet Singh orchestrated the creation and misuse of several business entities (firms having GST registration), notably REEN Enterprises, friend Enterprises, Sahdev Enterprises, Raj Rani Traders Mohindra Enterprises, JK Traders, PV Traders, Super Enterprises, Sitam Enterprises, Amrik Enterprises among others, utilizing identities of unsuspecting individuals for creation of the firms and thereupon by handing over the said firms to Harpal Singh (Accused). Gurmeet Singh also contributed similarly by providing firms like MS Trading Company and JJ Iron and Scrap Store to Harpal Singh. The *modus operandi* disclosed that the aforesaid firms were employed by Harpal Singh to generate fraudulent tax invoices. This scheme was designed to facilitate bogus claims for Input Tax Credit from the GST department, thus executing a financial fraud against the state. Further, it was disclosed

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that the individual namely Harpreet Singh, using his influence derived from his father being the Sarpanch, along with Gurmeet Singh provided assurances of protection and support to Harpal Singh, facilitating his engagement in unlawful enterprises.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. His name does not find mentioned in the FIR but he has been nominated as an accused on the basis of disclosure statement of his co-accused Sumit Kumar. Though, the instant anticipatory petition was the second one, the first one having been withdrawn on 22.05.2024, this petition had been filed as Harpal Singh the main accused had executed an affidavit in favour of the petitioner exonerating him of any illegal activity. As the petitioner was ready and willing to join investigation, he was entitled to the concession of anticipatory bail.

5. An affidavit dated 31.07.2024 by way of an affidavit of Kuldeep Singh, IPS, Commissioner of Police, Ludhiana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the said reply, he contends that the petitioner along with one Gurmeet Singh @ Ricky had orchestrated the creation and misuse of several business entities by using identities of unsuspecting individuals for creation of firms with a view to generate fraudulent tax invoices to claim input tax credit from the GST Department thereby executing a financial fraud against the State. The

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petitioner was providing fictitious firms, assurances of protection and support to Harpal Singh facilitating his engagement in unlawful enterprises. The Investigating Agency was working to unravel the complex network of numerous firms and individuals entangled in the racket for which the custodial interrogation of the petitioner was certainly required. The first bail application of the petitioner had been argued at length and when this Court was not inclined to grant bail to him, the said petition was withdrawn on 22.05.2024. An affidavit given by a co-accused exonerating the petitioner and the compromise purportedly effected with the complainant would not amount to change in circumstances entitling the petitioner to file the instant second anticipatory bail petition as in the instant case, the Government has been defrauded and the complainant only set the law into motion. Therefore, the petitioner 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 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:-

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> "*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***

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> ***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 evidence collected so far would point towards the fact that not only did the petitioner along with Gurmeet Singh @ Ricky create and misuse several business entities and handover the same to Harpal Singh to avail fraudulent input tax credit but the petitioner provided assurances of protection and support to the said Harpal Singh further facilitating engagement in unlawful enterprises. The financial fraud committed by the petitioner was on multiple levels. Initially, the fraud involved in the misappropriation of individuals identities by the accused (by getting the Aadhar Cards and PAN Cards of unsuspecting individuals on a false pretext) which facilitated the creation of various fictitious firms. These firms were then used as vehicles for the issuance of counterfeit tax invoices. The second facet of the fraudulent activity involved the exploitation of the aforementioned firms to orchestrate bogus claims for ITC, thereby perpetrating a significant financial fraud against the State exchequer. Therefore, the offence stands *prima facie* established against the petitioner and his co-

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accused. Merely because a co-accused Harpal Singh had furnished an affidavit exonerating the petitioner and the complainant did not have any objection to the grant of bail to the petitioner would not amount to change in circumstances entitling the petitioner to the grant of anticipatory bail in view of the material collected against the petitioner thus far of having facilitated a fraud upon the GST Department. Further, the co-accused of the petitioner namely Gurmeet Singh alias Ricky is still absconding despite his anticipatory bail having been rejected. Even otherwise, because of the complex nature of the investigation, the custodial interrogation of the petitioner is certainly necessary to take the investigation to the logical conclusion.

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

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

02.08.2024
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Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No

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