



257 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-35152-2024
Date of decision: 2nd August, 2024

Davinder Singh @ Davinder Saini

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B.D. Sharma, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
39	24.04.2024	Haryana, District Hoshiarpur	406 and 420 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of complaint lodged by the complainant Sucha Singh alleging that he had been introduced with the petitioner through one Paramjit Singh on 07.01.2020 as his son Jaspal Singh wanted to go abroad and Pramjit Singh told him that the



petitioner who was an agent would certainly help him in this matter. He alleged that on 23.03.2020, a lock down was imposed in the entire country. During the period of lock down, he had paid a sum of Rs. 13,84,200/- to the petitioner. After lifting of the lock down, he approached the petitioner for making arrangement for sending his son abroad but when he did not respond satisfactorily, then the complainant demanded his money back on 30.09.2021 and at that time, the petitioner assured to return the money within two months. However, he kept on making excuses. Subsequently, he paid an amount of Rs. 3,20,000/- to the complainant through different modes, but failed to return the remaining amount of Rs. 10,64,200/-. He gave a cheque of an amount of Rs. 5,00,000/- to the complainant but it was found that there were no funds in his bank account. Now the petitioner had been putting of the question of refund of remaining money to him and rather had been extending threats to his life. As such, he prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are under way. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, which has been dismissed vide order dated 18.07.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely fabricated in this case. He had only helped the complainant for applying for admission of his son as a student in Canada. The major portion of money given by the complainant was utilized for facilitating the admission of his son in an



educational institution in Canada in the year 2020. However, due to outbreak of COVID-19 pandemic and imposition of lock down, the process of admission in foreign countries was effected and stopped and therefore, the admission of his son was delayed. The complainant and his son had refused to continue with the process of admission as his son did not want to go abroad during the pandemic. The petitioner had made it clear to the complainant that the money already forwarded for admission in the educational institution would not be refunded and the complainant had agreed to accept refund of Rs. 5,00,000/- in *toto* which with their mutual understanding had been got transferred in the bank account of the complainant and his family members and now the complainant out of greed has falsely involved him in this case by taking advantage of his being a police official posted as Assistant Sub Inspector at Hoshiarpur. It is also argued that no cheque has been issued by the petitioner. It is further argued that the custodial interrogation of the petitioner is not required. He is ready to join the investigation. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Learned State counsel who has advance notice of the petition has submitted that he is ready to argue the matter. It is argued that there are specific and serious allegations against the petitioner. He himself has not denied the factum of receipt of amount of Rs. 13,84,200/- from the complainant which had been transferred in his bank account through different modes and also some of which was given through cash. His own admission shows that he had received the amount of Rs. 13,84,200/- from



the complainant for sending his son abroad. He has failed to show as to how the aforementioned amount had been utilized by him. His custodial interrogation is required for the purpose of showing as to whether, he had deposited any amount with educational institution at Canada for the purpose of admission of the son of the complainant in any such institution. He has caused wrongful loss to the tune of huge amount of money to the complainant and the said amount is to be recovered from him. No extraordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. With these broad submissions, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have received a sum of Rs. 13,84,200/- from the complainant for the purpose of sending the son of the latter abroad for the purpose of pursuing some educational course. This amount is stated to have been given to him during the outbreak of pandemic of COVID-19. The plea as taken by the petitioner himself is that he had agreed to give back an amount of Rs. 5,00,000/- as received from the complainant but the remaining amount had been spent for the purpose of admission of the petitioner. His custodial interrogation is must for the purpose of knowing that the said amount had actually been utilized for that purpose and had not been misappropriated by the petitioner. Moreso, power for grant of anticipatory bail is an extra ordinary power, which is to be



exercised sparingly in exceptional cases. It is well settled that judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation and attendant factors to decide, whether it is a fit case for grant of anticipatory bail since grant of pre-arrest bail to some extent interferes in the sphere of investigation of an offence. The Courts must be circumspect while exercising power for grant of anticipatory bail and that has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy which in my considered opinion do not exist in this case keeping in view the allegations levelled against the petitioner. Accordingly, finding no reason to allow the petition, the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd August, 2024

Parveen Sharma

1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes