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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37970-2024
Decided on : 03.12.2024

Supriya

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Baljeet Beniwal, Advocate
for the petitioner

Mr. Gaurav Bansal, DAG Haryana

Mr. S.S. Duhan, Advocate
for the complainant

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KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.130 dated 21.06.2024, under Sections 406 and 420 IPC registered at Police Station Bass, Hisar, the petitioner has preferred this petition under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. The contents of the above-mentioned FIR are reproduced herein below :-

> *"Today on 21.06.2024 a complaint number 645-PU, DATE 10.04.2024, SP office Hansi, was received at the Police Station through post after investigation from Economic Offenses Cell branch Hansi, which is follows- as To, S.P. Sir, District Police Hansi. Subject: Application for taking legal action against 1. Deepak son Shri Sajjan Mo. 9891127148 and Mo. No. 971545919175, 2. Priyanka wife of Deepak Mo. 971565809942, 3. Surya son of Sajjan Mo. no*

9518155932, 4. Pramod wife of Sajjan resident of Village SinghwaKhas, Tehsil Bass, District Hisar, Mob. No. 8689065980 and 5. BijendraRathi, father's name unknown, mobile no. 9053733713, caste Jat, village LakhanMajra, resident of Tehsil Meham, District Rohtak. Respected Sir, the applicants make the following request: It is my humble request that we 1. Ravinder Kumar Vedprakash2. Krishan son of Prakash son of Shri 3. Vijay son of Shri Devi Singh, caste Jat and 4. Jaiveer son of Shri BanwariLal, caste Chamar, ail residents of village Singhwakhas. Tehsil Danny DinteION Hisar. That all the above accused had taken money from us for getting us jobs abroad. In which Ravinder Kumar had deposited Rs. 4,99,500/- 40 different accounts on the advice of Deepak, That in account no. 922010005192654, total Ra 11,000/- was deposited in the account of Deepak son of Sajjan. That on the advice of Deepak, an amount of Rs. 1,00,000/-, Rs. 90,000/- and Ra 1,00,000/- and Rs. 98,500/-, making a total amount of Rs. 3,88,500/- was deposited in Asta Bank account 50,000/- on no. XXXXXXXXX027574. 19.04.2023 and Rs. That 50,000/- on 20.04.2023 was transfered through Google Pay by Ravinder Kumar son of Shri Vedprakash whose mobile number is 9466797988 and account number is 53490100008375 which is of Bank of Baroda Hansi branch, which was deposited on Deepak's mobile number 9891127148. That Ashish Kumar, on the instructions of Deepak have transferred Ra. 50,000, Rs. 2,000, Rs. 18,000 and Rs. 10,000 from bank account no. 923010011962549 on Deepak's brother Surya's mobile number 9518155932 through Google Pay on 13.06.2023. In this way, Ashish Kumar had put a total amount of Rs. 80,000/- on Surya's mobile phone through Google Pay. Vijay son of Shri Devi Singh had given Rs. 6,00,000/- in cash to Burya son of Sajjan on 11.04.2023 and an dated 13.06.2023, Vijay son of Shri Devi Singh had deposited Rs. 80,000/- in Surya's account from his son Ashish Kumar's account. That Jaiveer son of Shri Banwari had given Rs. 5,50,000/- in cash to Surya son of Sajjan in the month of March. Krishna son of Prakash gave Rs. 6,00,000/- in cash to Deepak son of

Sajjan on 16.10.2022 and after a month Deepak son of Sajjan returned Ps. 3,50,000/- to Krishna son of Prakash. After two- three months, Deepak son of Sajjan gave Rs. 1,40,000/- in cash to Krishna son of Prakash through some Sunil son of Ajmer. Now the remaining amount of Rs. 1,10,000/- is outstanding on behalf of Deepak son of Sajjan. Deepak son of Sajjan and refusing to his family members are clearly give US money. The total amount pending of all four of us is Rs. 18,39,500/- should be returned to us. We want to take legal action against the above accuseds by giving a collective application. Which is necessary. Therefore, by submitting this application, it is requested that the above application on behalf of the above four should be accepted and strictest legal action should be taken against the above accused. You would be highly grateful. Date 08.04.2024, SD- Ravinder Kumar, Vijay, Krishna, LTI- Jaiveer. Applicants 1. Ravinder Kumar son of Shri Vedprakash, Mobile No. 9466797988, 2. Vijay son of Shri Devi Singh, Caste Jat, Mobile No. 9050944500, 3. Krishna son of Prakash Krishna, Mobile No. 9991817895, 4. Jaiveer son of Shri BanwariLal, caste Chamar, resident of village Singhwakhas, Tehsil Bas, District Hisar, mobile no. 8607057270, Sonu. The conclusion of investigation report is investigation, statements the as follows During the of the complainant Ravinder Kumar son of Vedprakash, Vijay son of Devi, Krishna son of Prakash and Jaiveer son of Banwarilal residents of Singhwakhas, Tehsil Bass, District Hisar have been recorded by joining them in investigation, according to their statements, the respondents Deepak son of Sajjan and Surya son of Sajjan, by deceiving the complainants and their acquaintances to send them abroad, have cheated Ravinder Kumar son of Vedprakash of Rs. 4,99,500/-, Vijay son of Devi of Rs. 6,80,000/-, Krishna son of Prakash of Rs. 1,10,000/- and Jaiveer son of Banwarilal of Rs. totaling Rs. 18,39,500/-. 5,50,000/-, During the investigation of the complaint, the respondent party was repeatedly informed through notice, phone and Whatsapp to present their side in the complaint and join the investigation, but the respondent party did not join the investigation.

Therefore, there is a need to register a case on the complaint and conduct a thorough investigation. Therefore, it is recommended to register a case against the respondents Deepak son of Sajjan and Surya son of Sajjan resident of Singhwakhas under Section 406, 420 IPC and the role of other accuseds in the complaint, Priyanka wife of Deepak. Pramod wife of Sajjan resident of Singhwakhas. resident of District Hisar and BijendraRathi LakhanMajra, District suspicious. They should investigation of the be Rohtak joined in case. The report is the is submitted to service. SD Prem Singh SI, Incharge (Sub.Inspector Prem Singh), Economic Offences Branch, Hansi, dated 20-6-24."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner along with four other co-accused committed a fraud with the complainant and three others to the tune of Rs.18,39,000/- on the pretext of arranging employment for them abroad. Vide order dated 21.10.2024, upon request of learned counsel for the parties, the parties were referred to Mediation and Conciliation Centre, Hisar.

4. In compliance thereto, a report has been received from the Mediation and Conciliation Centre, Hisar dated 14.11.2024, as per which the mediation failed due to adamant attitude of both the parties.

5. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel has placed reliance upon the status report dated 07.09.2024 wherein the following has been stated :-

"3. That, the investigation of the case was conducted by PSI Parveen. Complainants were joined into the investigation and they produced the copy of their account statement and screen shots of whatsapp of their mobile phone and same were possessed by the investigating officer vide separate memo. After the inquiry, it was discovered that

Ravinder Kumar paid Rs.4,99,500/-, Vijay paid Rs.6,80,000/-, Krishan paid Rs.1.10,000/- and Jaivir paid Rs.5,50,000/- to present petitioner Surya and co-accused Deepak since they had asked them to secure employment for them abroad. Notices were served upon the accused, but they did not turn up.

4. That in compliance of the order of Hon'blr High court vide order dated 06.08.2024, present petitioner was joined into the investigation on 18.08.2024. During the course of investigation present petitioner suffered his confessional disclosure statement in which he admitted that he received the money from the complainants on pretext to secure employment for them abroad. In pursuance of his disclosure statement, he got recovered Rs.80,000/- cash and same was taken into possession vide separate recovery memo. It is further submitted that investigation is going on.

5. That, the allegations against the present petitioner-accused namely Surya are that he alongwith his brother Deepak took money from the complainants on the premise of getting them employment in the foreign country. Transfer of rs.80,000/- to his account is not disputed. All these aspects need to be investigated thoroughly and for that purpose custodial interrogation would certainly be required. It is further submitted that arrest of co-accused Deepak is pending in this case and he is by named in the present case, who is living in Dubai presently. If the Hon'ble Court granted the relief of anticipatory bail, then arrest of co-accused Deepak i i.e. brother of present petitioner will be affected."

6. Heard the rival submissions made by learned counsel for the parties and perused the record.

7. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC),*** Hon'ble Supreme Court held as under:

"It is thus obvious from the catena of decisions dealing with bail that

even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in HDFC Bank Ltd. v. J.J.Mannan & Anr. 2010 (1) SCC 679).

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that "**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant."*

8. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the

Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

9. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon'ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

> *"84. Just as liberty is precious to an individual, so is the society's interest in maintenance of peace, law and order. Both are equally important."*

10. There are serious allegations levelled against the petitioner. As per status report, the petitioner received a sum of Rs. 80,000/- in his account, which *prima facie* establishes complicity of petitioner in the alleged offence. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

11. The petition is dismissed.

12. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

13. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

December 03, 2024
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No