



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-37986-2024
DECIDED ON: 06.08.2024

POONAM ALIAS MANPREET KAUR

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

SANDEEP MOUDGIL, J1. RELIEF SOUGHT

The jurisdiction of this court has been invoked for the second time under section 438 Cr.P.C seeking issuance of directions to the Investigating Officer to release the petitioner on anticipatory bail in the case arising out of FIR No.04 dated 17.01.2024 under Section 420 of the Indian Penal Code registered at Police Station Dhariwal, District Gurdaspur.

2. The contents of the FIR read as under:-

‘To SSP Gurdaspur Subject; For committing fraud by Doctor farooq For taken money from 15 person s and 1 lady in the name of sending abroad and when we demand money from him, he threaten is for killing and beatings, when we asked him that we will take help of law then her said he did not afraid from Law, Sir it is requested that we Sukhdev Singh son of Mehnga Singh, Lovely wife of Sahil Kumar, Sahil Kumar son of Sarwan Kumar, Sham Singh son of Sardar Singh, Palwinder Singh son of Chanchal Singh, Baljinder

Singh son of Hardev Singh, Jagmohan Singh son of Piara Singh and similarly some more persons total persons comes to 16, Doctor Farooq has put Rs 3.40 lacs in the account of his wife Manpreet in her account no 0137001700356955, some money has been taken by doctor Farooq from the house of persons, Doctor Farooq told us about sending of some passport through post that these passport had come after stamping from abroad in which we have not received the passport of Sham Singh son of Sardar Singh, today we had gone to church to meet doctor farooq to ask for money but he did not listen to us and took fight withy ne of our child and he misbehaved with us and gave us abuses, he even did not make any respect of ladies.'

SUBMISSIONS

ON BEHALF OF THE PETITIONER:

3. It is contended by the learned counsel for the petitioner that the allegations in the FIR are false and baseless as there was no inducement on the part of the petitioner and that he never had any dealings with the complainant and the persons named in the FIR. It is also contended that the account of the petitioner is being operated by her husband – Dr.Farooq and as such the petitioner is not aware of the deposit of amount of Rs.3.40 lacs in her account. Moreso, the main accused i.e. Dr.Farooq has already been granted regular bail in this case by the Hon'ble Court, vide order dated 04.06.2024,(Annexure P-3). As such, the petitioner is entitled for anticipatory bail in the present case on the basis of parity.

ON BEHALF OF RESPONDENT-STATE:

Learned State counsel appearing in advance accepts notice on behalf of the state and prays for dismissal of the present application which deserves to be dismissed on account of maintainability wherein no new

evidence has arisen after dismissal of earlier petition vide order dated 30.04.2024 (Annexure P-2)

4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that this petition deserves to be dismissed on account of maintainability since no ostensible change in circumstances has been asserted and moreso, custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

Although no exhaustive guidelines can possibly be laid down as to what constitutes ostensible change as every case has its own unique facts and circumstances. But, the essential pre requisite for consideration of successive anticipatory bail is material or substantive change which stands missing in the present petition.

Moreover, it is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of **Andhra Pradesh vs. Vimal Krishna Kundu**, AIR 1997 SC 3589, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in **Ram Govind Upadhyay versus Sudarshan Singh**, (2002) 3 SCC 598, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

6. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the petition and the same is hereby dismissed.

7. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

06.08.2024
anuradha

(SANDEEP MOUDGIL)
JUDGE

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