



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM-M-39185-2024
DECIDED ON: 13.08.2024

SATBIR ALAIS SATBEER

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioner.

SANDEEP MOUDGIL, J.1. **RELIEF SOUGHT**

The jurisdiction of this court has been invoked under section 438 Cr.P.C, for grant of anticipatory bail in the case arising out of FIR No.61 dated 24.05.2024 registered under Sections 420, 406 of the Indian Penal Code, 1860, at Police Station Vairoke, District Fazilka.

2. The facts of the case unfolds that on a complaint being made to the SSP, Fazilka, against Aman Skoda son of Bhagwan Dass and Satbir son of Lekh Raj, for committing fraud with the complainant – Gurwinder Singh son of Baldev Singh, FIR came to be registered with the allegation that aforementioned persons have committed fraud on the pretext of giving P.C.S. job to brother of complainant's friend Raj Singh resident of Bathinda. The above named persons told him that we shall get recruited your friend's brother in P.C.S. in lieu of which we shall take Rs.85,00,000/-



(Rupees Eight five lacs

only). Complainant paid Rs.30.00 lacs only to them through Jugraj Singh son of Malkeet Singh at the house of Satbir at Village Rangila but they did get recruited his friend's brother in P.C.S. When complainant demanded back his amount then they started giving threats to the complainant.

SUBMISSIONS

ON BEHALF OF THE PETITIONER:

3. It is contended by the learned counsel for the petitioner that the allegations in the complaint are false and frivolous and that apart, there is an unexplained delay of six years in reporting the matter to the police. Further, as per the complainant, the amount was allegedly given on 01.05.2018 despite that, co-accused Amandeep Kamboj @ Aman Skoda failed to fulfill his promise, however, the complaint for the first time was given on 22.03.2024 after a long and unexplained delay and the FIR has been registered on 24.05.2024. Moreso, according to the complainant version, money was paid for getting recruited brother of complainant's friend, as such, the complainant version does not seem to be consistent because the money is allegedly paid by a third person and neither the applicant nor his family member. He further contends that, there is no source of payment mentioned in the complaint which is the very basis of registration of FIR in the present case. As such, the allegations in the complaint are prima facie false and frivolous and the petitioner deserves to be granted anticipatory bail in the present case.

4. Heard the counsel for the petitioner.

ANALYSIS ANDCONCLUSION

5. 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 custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner wherein he is alleged to have committed fraud by promising to get recruited the brother of the petitioner's friend in a government job wherein it becomes indispensable to grant the relief of anticipatory bail to the petitioner.

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 to bring the true picture to the ground. Further, the registration of four other FIRs leaves no manner to doubt that the petitioner is habitual of committing such like offences, although the petitioner has been granted interim bail in two FIRs; his arrest has been stayed in one FIR and has been granted regular bail in fourth FIR whereas this Court does not find it to be fit case for grant of anticipatory bail to the petitioner. Therefore, I find no merit in the petition and the same is hereby dismissed.

7. However, it is made clear that the observations made hereinabove shall have no bearing in the mind of trial Court while conducting the trial and adjudicating the same.

13.08.2024
anuradha (v)

(SANDEEP MOUDGIL)
JUDGE

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