

**CRM-M-40790-2024 (O&M)**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40790-2024 (O&M)

Date of Decision : 27.11.2024

Gurbinder Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. SPS Chakkal, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

Mr. Anil Ghanghas, Advocate
for the complainant

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.321 dated 17.07.2024 under Sections 406, 420, 120-B IPC and Section 24 of Emigration Act, 1983 registered at Police Station Pinjore, District Panchkula, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.
2. The contents of the above-mentioned FIR are reproduced herein below :-

“After inquiry of Complaint No. 330-PW Dated 18.04.2024 conducted by Incharge, Economic Offence Wing, Panchkula and a per order of senior officers, the same is received in the police station for registration of case, that: To, The Deputy the contents of which are Commissioner Panchkula. Subject: Complaint against of Police, Gurvinder Singh son of Labh Singh Mob. No. 9855620286 and Lovepreet son of Gurvinder Singh Mob. No.17783457948 and



Kuldeep Kaur Mob. No. 9878908804 wife of Shri Amarjeet Singh resident of House No. 963/3 Govindpura near Gurudwara Sahib, Manimajra, UT Chandigarh for committing fraud under the pretext to send abroad. Sir, it is requested that I Prabhleen Kaur daughter of late Shri Gurmeet Singh, am resident of house No. 1108-B-2 Vishwakarma Colony Pinjore, Tehsil Kalka District Panchkula, I am requesting as under 1. That I am a permanent resident of above noted address.

2. That Smt. Kuldeep Kaur wife of Amarjeet Singh, resident of house no. 963/3 Govindpura, near Mata Rajkaur Gurdwara, Manimajra UT, Chandigarh, is our relative and her daughter Ishan Preet Kaur alias Ishu lives in Canada and she is residing with Lovepreet son of Sh. Gurvinder Singh.

3. That I am 12th passed and one day Kuldeep Kaur talked to my mother Smt. Manbir Kaur and said that we will also send your daughter Prabhleen Kaur to my daughter Ishanpreet Kaur alias Ishu and said that Lovepreet has her own business in Canada and he will call me to Canada under LMIA and the responsibility of getting the work will also be on Lovepreet and Ishanpreet Kaur alias Ishu. Sh. Kuldeep Kaur trapped my mother in his words. Sir, thereafter we asked Kuldeep Kaur about the amount to be sent to go to Canada and she said that you have to pay Rs. 25,00,000. Sir, after this Kuldeep Kaur gave the number of parents of Lovepreet and arranged our talk to them and parents of Lovepreet also assured us that there is nothing to worry about it and said that Lovepreet has his own work in Canada and he will call at Canada under LMIA. Thereafter Gurvinder Singh gave us mobile number of Lovepreet and we talked to him and after that he asked for my passport and other documents and I sent all my documents to Lovepreet through e- mail and through Whatsapp.

4. That on 08/05/2023, Lovepreet has made us phone call and asked for Rs 7,00,000/- and this amount was transferred from my grandmother's account to his bank account number 510600774685-



Bank of Nova Scotia, 44 King Street West Toronto, On MSH IHICA and on 22/05/2023, Lovepreet again made phone call and demanded the amount of Rs 1,50,000/- and this amount was transferred from the joint account of me and my mother to his bank account number 510600774685 Bank of Nova Scotia, 44 King, Street West Toronto, On M5H IHICA. Thereafter on 01/06/2023 we received a phone call from Lovepreet and he demanded Rs 2,50,000 and this amount was transferred from our joint account to his bank account number 510600774685 Bank of Nova Scotia, 44 King Street West Toronto, ON M5H IHICA. Thereafter on 03/07/2023, we again got a call from Lovepreet and he demanded Rs 2,00,000 and this amount was transferred from my grandmother's bank account to his bank account number 510600774685 Bank of Nova Scotia, 44 King Street West. Toronto, ON MSH got transferred to IHICA.

5. Sir, on 10/5/2023, Lovepreet demanded Rs 20,000/- and this amount got transferred by him to the Googlepay account of his friend Sonu.

6. Sir, on 20/5/2024, we received a phone call call from Lovepreet and he said to give Rs. 4,00,000 to his father Gurvinder Singh, therefore this amount was given by on 26/05/2023 to Gurvinder Singh father of Lovepreet at Shambhu Border under the bridge at Rajpura.

7. Sir, we had completed all the documents related to visit at Canada and sent them to him through e-mail. Sir. thereafter Lovepreet sent a letter employment details through e-mail and when we inquired about it then same is found to be fake. Sir, when we talked to Lovepreet about it, numbers of my entire family. Sir, call to Lovepreet and I talked to told him about to go to he blocked the one day I made him and when I his house, then he misbehaved with me and said if you will go to my house then I will manage to kill you.

8. Thereafter on 15/04/2024, we went to the village Sandharsi, Police Station Ghanour Tehsil Rajpura District Patiala of Lovepreet and met the Sarpanch there and the Sarpanch of the village dropped us at



his house and where parents of Lovepreet have misbehaved with us and said that we will first talk to our son and then we will tell you. But no information was given to us by them. Sir, thereafter we talked to Kuldeep Kaur but she also did not pick up our phone calls.

9. Sir, all the above mentioned people together have trapped us in their words. You are requested to take strict legal action against these peoples and get our money back from them. I shall be thankful to you. Applicant (sd/-Parvleen Kaur) Prabhleen Kaur, daughter of Late Shri Gurmeet Singh, resident of house 1108 number B-2 Vishwakarma Colony Pinjore, Tehsil Kalka District Panchkula. Mobile No. 7496829022, 8950824566 dated: 18/04/2024. Today in Police Station: On receiving of above said complaint in police station, FIR No. 321 dated 17.07.2024 under section 406,420,120-V of IPC and section 24 of Emigration Act, 1983 has been registered at Police Station Pinjore, Panchkula and after preparing the copies of FIR, the same are being sent to the senior officers by post. The police file along with original complaint is will be handed over to ASI Didar Singh No. 904/Panchkula for further investigation. The Station House Officer has been intimated about the facts of case. The record has been completed as per procedure. This case has been registered in the present of PSI Gural Singh."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He further submits that the petitioner did not receive any amount from the complainant and the petitioner has no knowledge or involvement in any financial transactions between his son Lovepreet and the complainant. It has also been argued that the petitioner does not have any connection or relationship with Lovepreet for several years.

4. Vide order dated 09.09.2024, learned counsel for the petitioner as well as counsel for the complainant had submitted that there are chances of amicable



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Conciliation Centre of this Court. As per the report dated 25.11.2024, received from the Mediation and Conciliation Centre, the case has sent back to this Court being ***an unsettled case***.

5. Per contra, learned State counsel has opposed the prayer made by learned counsel for the petitioner and submitted that there are serious allegations against the petitioner and that as per the relevant documents on record it has been found that the present petitioner alongwith co-accused namely Lovepreet (son of the petitioner) had fraudulently and intentionally grabbed the total amount of Rs. 17,20,000/-, out of which Rs. 4,00,000/- was given to the petitioner in cash, which was required to be recovered from the petitioner. He further submits that the main accused namely Lovepreet is residing in Canada and the custodial interrogation of the petitioner is required to recover the amount grabbed by the petitioner in connivance with his son namely Lovepreet.

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 ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon’ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the

applicant has falsely been enroled in the crime and would not misuse his liberty.

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10. In view of the submissions made by the respective counsels and considering the aspect that the present petitioner has committed the grave offence of intentionally cheating the complainant on the pretext of sending her abroad and even received Rs. 04 lacs from the proceeds of alleged crime and the fact that even the mediation remain unsuccessful, 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, stands disposed of.

27.11.2024

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**(KIRTI SINGH)
JUDGE**

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No