

(216)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43733-2023
Date of Decision: 06.02.2024

SUKHDEV SINGH @ MANI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CRM-M-45946-2023

GURCHARAN SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Harish Bhatti, Advocate
for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Deepak Kumar, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

This order shall dispose of two petitions bearing No.CRM-M-43733-2023 titled as Sukhdev Singh @ Mani Versus State of Punjab and CRM-M-45946-2023 titled as Gurcharan Singh Versus State of Punjab as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRM-M-43733-2023.

2. The prayer in the present petitions under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.64

dated 22.07.2023 registered under Sections 420 and 120-B of the IPC at Police Station Badali Alla Singh, Fatehgarh Sahib.

3. The present FIR came to be registered at the instance of Swaran Singh son of Sadhu Singh and the same reads as under:-

“To the Senior Captan, Police Fatehgarh Sahib.

Subject: Complainant Against:

a. Gurcharan Singh @ Molu, mobile no. 6280068681 son of unknown.

b. Sukhdev Singh @ Mani mobile no. 6280068681, 9915259174 son of Gurcharan Singh @ Moli.

c. Harjit Singh son of Harmel resident of Village Lullon, tehsil and police station Bassi Pathana, District Fatehgarh Sahib.

d. Babu Ram mobile no. 9876696230, 9903187372 son of Prakash Chand resident of Kharot wala, Post Office Paror, tehsil Palampur, District Kangra (Himachal Pradesh).

For alluring of amount of Rs. 5,00,000/- Approx. for procure govt. job for the son of complainant and requested to take legal action against them.

1. Sir, I Swaran Singh aged about 47 years son of Sh. Sadhu Singh, resident of village Rupalheri, police station Badali Alla Singh district Fatehgarh Sahib and a peace loving person.

2. That I have two son namely Satwinder singh and Sitender Singh who are unemployed so I remain worried.

3. That accused no.1 is son in law of my Aunt (Masi), who is my Bother- in-law that he is serving in the Army. Accused no. 2 is son of the accused no. 1. Accused no. 3 is the retired Army person of the same village of accused no. 1 and 2.

4. That I was having good relation of the above said accused persons. And I was taking to these persons for the employment of my son. Then the above said accused persons no. 1 to 3 said to me that they knows a person namely Babu Ram (Accused no.4) who is working in Army, who is having good relations with the officers. And also said that he procure the govt. job of many person and do not need to fear. And also said that with a small amount job of your son will be procured. That accused no. 1 to 3 called the Babu Ram in the house of complainant. And also granteed to complainant and his family for govt. job to my son Satwinder Singh.

6. That on saying of above said accused persons, on dated 27.08.2019, I deposit Rs. 1,50,000/- in the account of Kapil Dev who was working with Babu Ram. Then on the demand of above said accused persons I given cash and bank deposit in different dates. And about 5,00,000/- has been given to the accused persons.

7. That the above said accused persons cheated with conspiracy to provide a joining letter of gardener job on dated 12.01.2022 for informed for the posting at Pune. When after some we asked to the accused persons for joining of job then they said that the job of gardener is not good, we will provide a good job in Army to your son. Then above said accused persons have given another appointment letter dated 04.02.2022 to us and said for the training at West Bengal. Then I send my son with these persons. Then they kept my son in a room for many days and also said that you have no need to join training. Your presence is getting marked on training and I paid Rs. 1,000/- for three months as a rent of my son to remain in west Bengal (Calcutta). Above said accused persons kept my son at Calcutta at different places.

8. That meanwhile on dated 14.02.2022 accused persons has provided an offer appointment letter to my son and said that in some days your son will get a permanent job. Then on dated 18.05.2022, accused persons have provided a offer letter to my son Satwinder Singh and said your job got permanent at Railway. After that they kept my son at Calcutta for some days and my son told to the accused persons that I am not getting my salary in my account then they said your job got fixed at Delhi Railway and posting letter dated 15.07.2022 has given to my son. Then my son was send to Delhi and several times visited the railway station and said that only this is your work and this several times visited on saying of accused Babu Ram and other co-accused also used to come. Not only this, the accused persons have given I-Cards to my son. That above said accused persons has not given any salary to my son. Firstly came to village Rupalheri and started weeping and said that accused persons are deceiving us, and said that they will neither procure any job for me nor getting any salary in my account. Then complainant also get doubt so I inquiry in Railway department of the above said documents, then I came to know that the above said all the documents have been fabricated.

9. That thereafter I conversant with the accused persons that you have not procure any job for my son and the you have prepared fabricated documents then the accused persons are creating procrastination and then threatened that do whatever you want we are not going to return your money. Except this accused no. 1 and 2 didn't care about kinship. I also came to know that the same offence has also been registered at Pathankot against accused No.4, copy of that is attached with this complaint. And the remaining record

provided by the accused persons also attached with this complaint. It is pertinent to mention here that Sandeep Singh resident of village Nandpur Kalor was given a complaint against accused persons for procure govt. job, then the accused persons has returned the amount of Sandeep Singh. And a person of same village of accused no. 1 to 3 then they return their amount.

10. That the above said accused persons has cheated with me by making false promise to procure permanent govt. Job for my son. So it is requested that to initiate legal action against the accused persons by relevant provisions.”

4. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. In fact, the petitioners had not taken any money from the complainant on the pretext of securing a Government job for his son. It was the complainant who had promised the petitioners that he would arrange a job with the MES (Military Engineering Services) for Sukhdev Singh (petitioner in CRM-M-43733-2023) for an amount of Rs.4 lakhs. The petitioners had transferred an amount of Rs.2 lakhs in the account of different persons on the asking of the complainant. As the complainant could not arrange a Government job for petitioner-Sukhdev Singh, a complaint had been moved before the SSP Fatehgarh Sahib in that regard. Be that as it may, taking the allegations to be correct, the case was one of a civil transaction at best and as the petitioners were ready and willing to join investigation, they were entitled to the concession of anticipatory bail.

5. On the other hand, the learned State counsel along with the counsel for the complainant contend that the offence stands established

beyond any reasonable doubt. A sum of Rs.5,14,900/- had been transferred to different persons on the asking of the petitioners for the procurement of a job. Forged and fabricated joining and appointment letters had also been provided to the complainant which clearly shows the commission of the offences in question. Further, one Sandeep Singh had filed a complaint on identical allegations against the petitioners and a co-accused to the effect that they had taken Rs.4 lakhs from him for arranging a job. In the said complaint, a compromise has been arrived at with the complainant-Sandeep Singh and therefore, the said complaint had been filed. Thus, as the petitioners were habitual offenders and despite availing an opportunity had not entered into a compromise with the complainant, no case for the grant of anticipatory bail was made out and the present petitions were liable to be dismissed.

6. I have heard the learned counsel for the parties.

7. The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*** 2022 Live Law (SC) 870 held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

*We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. **In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial***

interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

8. At the very outset, on 02.09.2023 when this matter had come up for hearing for the first time, this Court had stayed the arrest of the petitioner-Sukhdev Singh alias Mani allowing him to join mediation proceedings. Though, the petitioners did join mediation proceedings, no settlement could be arrived at. Be that as it may, a perusal of the FIR and the investigation conducted so far would clearly established that the complainant had given a sum of Rs.5,14,900/- to the petitioners and their co-accused with a view to procure a job. However, the job was not provided and on the contrary, forged and fictitious joining and appointment letters were given to the complainant. The version of the petitioners that they themselves had given the complaint on similar allegations against the complainant to the SSP, Fatehgarh Sahib has been found to be incorrect as no such complaint is pending before the said authority. Further, apparently, the petitioners are habitual offenders having committed a similar offence earlier which came to be compromised. Therefore, as the offence against the petitioners stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioners is certainly required.

9. In view of the aforementioned discussion, I find no merit in the present petitions. Therefore, they stand dismissed.

10. However, the observations made hereinabove are only for the purposes of deciding this bail petition and the Trial Court is free to

adjudicate upon the matter on the basis of the evidence led before it
uninfluenced by any such observations made herein.

(JASJIT SINGH BEDI)
JUDGE

06.02.2024
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No