

CRM-M-47027-2022 (O & M)
(101)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-47027-2022 (O & M)
Date of decision:30.04.2024

Rohtash and anr. Petitioners

V/s

State of Haryana ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Toor, Advocate, for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. K.D.S. Hooda, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.253 dated 27.05.2022 under Section 306 read with Section 34 IPC registered at Police Station Urban Estate, Hisar, District Hisar.

2. The present FIR came to be registered at the instance of Manju Kumari and reads as under:-

“A 12. F.I.R. contents: To the S.H.O. Sahib, Police Station, Urban Estate, Hisar, Subject: Application for taking legal action against (1) Rohtash Bidasra s/o Dharampal R/o Gadrha, Tehsil Bhadra, District Hanumangarh, Rajasthan, Mob. No.63764-50411 (2) Bhajan Lal S/o Sh.Ratan Singh, caste Dhanak r/o Ajitpura, Tehsil Bhadra, District Hanumangarh, Mob. No.6350282868, sir, it is respectfully submitted that I Manju wife of Jaiprakash @ Pawan am resident of village Sagada, Police Station Bhirani, Tehsil Bhadra, District Hanumangarh, Rajasthan and I am a household lady/housewife. I have one daughter of the age of 10 months. My husband is having one brother and a sister. My husband was running Mehan Diagnostic Lab in Ajitpura, Tehsil, Bhadra, District

CRM-M-47027-2022 (O & M)
(101)

::2::

Hanumangarh and my JETH (brother-in-law) Vishnu is running a lab at Surya Hospital, Bhiwani. My husband Jaiprakash @ Pawan was in frustration since many days. On asking by me repeatedly, he informed that Rohtash Bidasra and Bhajanlal used to harass and humiliate him by saying that, 'we should get you implicated in a scandal/scam and get closed your lab and should get done work of some of their known in this lab'. On 09.05.2022, there was a marriage of son of my BUA named Prem Devi wife of Dharan Singh of village Chainpura. Tehsil Rajgarh organized at Chainpura. I had come to Chainpura on 01.05.2022 for attending the above mentioned marriage. I had come to Chainpura on 01.05.2022 for attending the above mentioned marriage and on 09.05.2022, my husband Jaiprakash @ Pawan son of Krishan Kumar resident of Sagra had also come to attend the marriage. After marriage ceremony, on 10.05.2022 my husband had returned to Ajitpura by saying that he had to run/look after his lab and I had come to my parental house situated at village Rajpuria, Tehsil Rajgarh. I had a talk with my husband for 1-2 times after I came to my parental house. On 12.05.2022, at 04.08 p.m., I received a phone call of my husband, who informed me that he is quite sad and he was talking in a very sad voice. He while crying informed me on phone that accused No.1 and 2 have been blackmailing me, due to which he was quite frustrated. Thereafter, the phone was disconnected. I immediately made repeated phone calls, but he didn't pick/attend my phone call. Thereafter, again his phone call was received at 04.41 p.m. and my husband had informed me that I am quite upset and frustrated at the hands of above mentioned accused persons as they are blackmailing me and usurping an amount of Rs.5.7 lakhs. These both accused persons shall be responsible for my death. I have been dying by eating sulphas tablets because of them. Conversation between me and my husband was recorded in my mobile phone, which is being produced by me before you vide a pendrive. I have been producing recording of

CRM-M-47027-2022 (O & M)
(101)

::3::

conversation between me and my husband in the same manner it was done. My husband had committed suicide on 12.05.2022 by eating sulphas tablets at Suncity Hotel, Hisar by getting fed up from the above mentioned accused persons and on account of blackmailing. In this regard, my husband had informed this very above mentioned same fact from his mobile no.95882-21347 to Devraj Meena, an official of the Police Station Bhirani on his mobile no.98294-76292 that the above mentioned accused persons have been blackmailing him, due to which he is going to commit suicide. Thereafter, the above mentioned Sh.Devraj Meena gave information from his mobile no.98294-76292 to my CHACHA SASUR (paternal father-in-law) named Sh.Krishan Kumar son of Kapoor Singh, caste Jaat resident of Sagra on his phone No.97728-76292 to the effect that Jaiprakash @ Pawan is going to commit suicide and as such save him. My CHACHA SASUR (paternal father-in-law) talked from his phone number with Jaiprakash @ Pawan on his phone number, so that he can persuade him. On phone Jaiprakash @ Pawan had informed that at present he is present in room No.102 of Suncity Hotel, Hisar and he has already eaten sulphas tablets. Thereafter, my CHACHA SASUR (paternal father-in-law) named Sh.Krishan Kumar son of Kapoor Singh and my father-in-law Krishan Kumar son of Sh.Nanuram etc along with other family members had left for Hisar. In Suncity Hotel, Hisar they came to know that my husband had been taken to Jindal Hospital, Hisar for his treatment, where they had declared my husband as dead. I and my family members had received news relating to death of my husband. I suffered severe shock. I regained consciousness after a period of about 2-3 days. Thereafter, I informed my family and my in-law family members about the conversation/talk taken place between me and my husband on phone to the effect that the above mentioned accused persons are responsible for the death of Jaiprakash @ Pawan. Thus, it is requested by submitting application that strict legal action may please be

CRM-M-47027-2022 (O & M)
(101)

::4::

taken against the accused persons by registering a case against them and justice be done to me and my daughter, for which I shall be highly grateful to you. Dated: 27.05.2022, Sd/- Manju Kumari, Applicant Manju Kumari Wie late Sh.Jaiprakash @ Pawan R/o village Sagra, Tehsil Bhadra, Hanumangarh, District Rajasthan, Mob. No.9582144356-x-x—x--x-”.

3. During the course of investigation, the statement of Constable Dev Raj of Police Station Bhirani (Rajasthan) was recorded in which he stated that the deceased-Jai Parkash @ Pawan had made a call to the Police Station, Bhirani and had informed them that he (Jai Parkash @ Pawan/deceased) wanted to commit suicide on account of harassment of blackmailing by the petitioners and that they had grabbed Rs.5/7 lakhs from him. The deceased, however, had stated that the girl was not to be harassed. Constable Dev Raj provided the recording of their conversation.

The statement of Kasak r/o Ajeetpura was recorded in which she stated that she was in relationship with deceased-Jai Parkash @ Pawan and the petitioners came to know about the said fact. They asked her (Kasak) to maintain contacts with them or bring her sister to them (petitioners) and on this pretext, they started blackmailing her and the deceased. Bhajan Lal-petitioner No.2 had been demanding money from the deceased and had threatened him to get his lab closed. She also stated that an altercation also took place between her and petitioner No.2-Bhajan Lal one day prior to the suicide of the deceased.

During the course of investigation, the bank account of petitioner No.2-Bhajan Lal was examined and it was found that a sum of Rs.4,25,000/- (approximately) had been deposited between January 2022 to 28.04.2022 which deposit remained unexplained.

CRM-M-47027-2022 (O & M)
(101)

::5::

Statements of Randhir r/o Balsmand, Vinod Kumar r/o Sagra and Islam r/o Ajeet Pura were recorded in which they stated that the deceased had taken various amount of money from them. They also stated that the deceased had sold his Swift car for a sum of Rs.1,30,000/-. The said amount had not been deposited in any bank account nor had been given to his wife (Manju Kumari-complainant). All of this showed that the money received by the deceased was paid to the petitioner No.2-Bhajan Lal on account of blackmailing.

During the course of investigation, the mobile phone of the deceased was examined and it was found that petitioner No.2 had threatened the deceased via social media and had sent him photographs in which he (petitioner No.2-Bhajan Lal) was seen with weapons. Attempts were made to make video calls to the deceased to disturb his family life. The conversation between the deceased and his wife was also extracted from the phone wherein the deceased is heard stating that Rohtash @ Rohas Bhidasara (petitioner No.1) was responsible for his death as they had extorted more than Rs.5 lakhs from him.

4. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. In fact, the deceased was running a laboratory in village Ajeetpura, Tehsil Bhadra, District Hanumangarh and used to stay in that village. He had entered into a relationship with a girl, namely, Kasak and this relationship was frowned upon by the villagers including petitioner No.2 who raised an objection. A Panchayat had been convened on 24.04.2022 in which the deceased had been summoned and he had admitted before petitioner No.2 and others that he would break his relationship with the said girl. This is why petitioner

CRM-M-47027-2022 (O & M)
(101)

::6::

No.2 had been implicated in the present case. As regards petitioner No.1, he contends that he was running a medical shop and being involved in the medical profession, he was known to the deceased. Other than that, petitioner No.1 and the deceased and no connection. He had been implicated on account of his good relations with the family of petitioner No.2. He further contends that taking the allegations to be correct, no offence whatsoever is made out, moreso, when there was a significant delay of more than 10 days in getting registered the instant FIR. The petitioners had otherwise joined investigation and had co-operated with the same. Therefore, they were entitled to the concession of anticipatory bail.

5. The learned counsel for the State, on the other hand, while referring to the replies/status reports dated 17.04.2023 and 19.03.2024 contends that the investigation conducted so far, clearly establishes that the petitioners were blackmailing the deceased and extorting money from him. The statement of the girl in question had been recorded in which she had categorically stated that both the petitioners wanted to maintain relationship either with her or her sister. Further, the petitioners were extorting money from the deceased and a sum of Rs.4,25,000/- stood deposited in the account of petitioner No.2-Bhajan Lal which deposit remains unexplained, moreso, when he was a simple agriculturist and could not possibly have generated this amount of wealth. The examination of the mobile phone of the deceased had shown that the accused persons were threatening him by sending him photographs showing themselves to be armed. Video calls were being made late at night to disturb his mental peace. There was a recording of conversation between the deceased and his wife to the effect that the petitioner No.1 was responsible for his death as they had extorted more than

CRM-M-47027-2022 (O & M)
(101)

::7::

Rs.5 lakhs from him. He contends that though the petitioners had joined the investigation, they were stone-walling the same by giving evasive answers. Therefore, their custodial interrogation was certainly required. Even otherwise, as the offence was *prima facie* established, the question of grant of anticipatory bail to the petitioners did not arise.

6. The learned counsel for the complainant has reiterated the arguments raised by the learned counsel for the State and submits that it was a case where the offence was *prima facie* established not only from the FIR but from the investigation conducted so far. Therefore, the petitioners were not entitled to the concession of anticipatory bail.

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

8. The Hon'ble Supreme Court in the case of '***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977***', has 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.”

9. In the instant case, a perusal of the FIR would show clear and specific allegations being levelled against the petitioners. The statements under Section 161 Cr.P.C. of the girl-Kasak would show that the petitioners

CRM-M-47027-2022 (O & M)

::9::

(101)

wanted to maintain a physical relationship with either her or her sister, though, she was involved with the deceased and they were extorting money from the deceased and threatening her (Kasak) as well. The statement of Constable Dev Raj would clearly show that the deceased had called him and leveled allegations of extortion against the petitioners and stated that he (deceased) would commit suicide. Similarly, the statements of Randhir, Vinod Kumar and Islam from whom the deceased borrowed money to hand over the same to the petitioners clearly establishes *prima facie*, veracity of the prosecution case against the petitioners that they had extorted money from the deceased. Further, though, the petitioners have joined investigation, they have been evasive and have been stone-walling the same. Therefore, their custodial interrogation is required not only because the offence is *prima facie* established but also to take the investigation to its logical conclusion.

10. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

11. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

April 30, 2024
sukhpreet

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