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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-45125-2023 (O & M)
Date of decision:09.02.2024

Kuldeep Singh

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Rahul Gautam, Advocate,
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

Mr. Ankur Jain, Advocate,
for Mr. Kamal Chaudhary, 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.125 dated 26.03.2022 under Sections 420, 467, 468, 471 and 120-B IPC registered at Police Station NIT Faridabad, Haryana.

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

“To, Commissioner Sir, Sector-21- C, Faridabad. Subject: Taking legal action against Virendra Kaur, Jagjit and Kuldeep s/o Jitendra and others regarding making of forged SC certificate in Tehsil. Sir, I request that I, Chavandeep Kaur wife of Shri Surjit Singh is resident of 5K/57, Ground Floor, NIT, Faridabad. That Varinder Kaur wife of Jagjit has got make a fake S.C. Certificate No. SC/2019/328 and CIDRIDHA0300436841 from Faridabad Tehsil and lodged a FIR against us bearing No. 453/19 at NIT police station.

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During the investigation of which we came to know that Virendra Kaur had given S.C. certificate. Then we filed R. T.I. to which Faridabad Tehsildar replied that S. C. certificate which has been registered directly on the computer by fake signature of Patwari and by fake marking. Now after observing the documents of the said "certificate" the above Scheduled Caste certificate has been cancelled. Whose photocopy is annexed as Annexure A. That after this Virendra Kaur along with her brother Kuldeep and some employees of Tehsil Badkhal got another fake S.C. Certificate with Serial No. SC/2020/161 dated 14.12.2020, about which when I came to know then I lodged a complaint with C. M. Window whose photocopy is attached as annexure "B". Then Tehsildar, Badkhal called for a report in the said SC certificate regarding caste from Virendra's father's original village/city Batala, in which Patwari as per the order of Tehsildar of city Batala deeply investigated and during investigation found that Virendra Kaur daughter of Jitendra Pal belongs to Lohar caste whose report is attached as "C" and A.C.P., N.I.T. Faridabad, Mr. Gajendra in FIR 453 also found that Virendra Kaur's uncle Gurmeet Singh who is now in Punjab Police also belongs to Lohar caste whose report is attached as "D" and another investigation was conducted by A.C.P. women police station, Mr. Jaipal in which Virendra Kaur's uncle Jaswinder Singh told in his statements that we belong to Lohar caste and the neighbors there also told that Jitendra belongs to Lohar caste but now they lives in Faridabad whose report is attached as "E". It is clearly revealed from all the above reports that Virendra Kaur and her father Late. Jitendra Pal, belonged to Lohar BC caste. Despite this Virendra Kaur and his brother got fake SC/2020/161 made in Tehsil Badkhal by conniving with Tehsil employees. Therefore, it is requested that the strictest legal action should be taken against the guilty by getting the

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inquiry done by a higher authority in the said complaint. Date 9/11/2021 Applicant SD Chavndeeep XXXXXXXXXXXXXXXX”.

3. During the investigation, the record of the Schedule Caste Certificates bearing No. SC/2019/328, Certificate bearing No. SC/2019/327 and another Certificate bearing No. SC/2020/161 pertaining to Smt. Varinder Kaur was taken from the concerned Tehsil i.e. Batala, District Gurdaspur, Punjab and the record of SC Certificate No. SC/2019/323 pertaining to the petitioner was taken from the concerned Tehsil i.e. Badkhal, Faridabad and it was found that the SC Certificate of co-accused namely Smt. Varinder Kaur was prepared on the basis of the Certificate of the petitioner and the forged Certificate of the petitioner was prepared without the Certificate of his father, whereas as per the rules of the State Government, to prepare a Schedule Caste Certificate, the certificate of the father of the applicant is mandatory.

During the investigation, it was also found that the petitioner and co-accused Varinder Kaur who is his real sister do not belong to the Scheduled Caste as they are "Lohar" by caste and the “Lohar” caste falls under the category of "Other Backward Caste". Even then, the petitioner and the co-accused fraudulently prepared a forged Certificate and the co-accused Varinder Kaur used her Scheduled Caste Certificate and lodged an FIR bearing No. 453/2019 U/s 148, 149, 323, 452, 506 IPC and 3(2 va)/33/89 SC & ST Act, P. S. NIT Faridabad against the complainant and her family members. The said FIR was cancelled by the Investigating Officer after a thorough investigation and a *Kalandra* U/s 182 IPC was registered by the police against the co-accused. It was further investigated and verified by

the investigating officer from Tehsil Batala, Punjab, that the father of the

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petitioner did not belong to the Schedule Caste and the statement of relatives of the petitioner, namely, Jasvinder Singh and Gurmeet Singh, who are the real uncle of the petitioner and the statement of Smt. Sukhvinder Kaur, who is the real maternal Aunt (Bua) of the petitioner was recorded by the Investigating Officer and the relatives of the petitioner clearly stated that they did not belong to the Schedule Caste. The real uncle of the petitioner, namely, Gurmeet Singh S/o Dharam Pal who is working in the Punjab Police posted at Head Quarter Sector-9, Chandigarh handed over his BC Certificate to the Investigating Officer.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case on account of a family property dispute. An earlier FIR bearing No.06 dated 06.01.2021 under Sections 420, 465, 467, 468, 471, 474 and 120-B IPC, was registered at Police Station Central Faridabad (Annexure P-2) against Varinder Kaur wife of Jagjeet Singh, Jagjeet Singh son of Late Kaka Narender Singh and Manjeet Singh @ Mannu son of Jitenderpal Singh. In the instant FIR, instead of Manjeet Singh @ Mannu, the petitioner had been substituted. In FIR No.06 dated 06.01.2021, Manjeet Singh @ Mannu and Jagjeet Singh had been granted the concession of anticipatory bail vide orders dated 17.08.2023 and 22.05.2023 (Annexures P-3 and P-4 respectively). The Scheduled Caste Certificate in question had been issued after fulfilling all legal requirements. The documents in question were already available with the Government Department and the Online Website of the Haryana Government. As the petitioner had joined investigation and had co-operated with the same, he was entitled to the concession of anticipatory bail.

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5. The learned counsel for the State, on the other hand, has filed a reply dated 07.02.2024 which is taken on record. While referring to the same, he alongwith the counsel of the complainant contend that the allegations against the petitioner stand established beyond reasonable doubt. In fact, as per the investigation conducted so far, the Scheduled Caste Certificate of the petitioner was prepared without any basis whatsoever. Based on the forged Scheduled Caste Certificate of the petitioner, his sister-Varinder Kaur was able to get prepared a forged Scheduled Caste Certificate. Various relatives of the petitioner had been investigated and it had been categorically found that the petitioner and his family belong to the “Lohar” Caste which falls under the “Other Backward Caste” category and were, thus, not belonging to the Scheduled Caste category. In FIR No. 06 dated 06.01.2021, Manjeet Singh, the real brother of the petitioner had been granted the concession of interim anticipatory bail on his undertaking that he would produce before the Investigating Agency the Scheduled Caste Certificate of his father which had been issued 40 years ago. However, he had not produced the same. Be that as it may, his bail petition and that of his co-accused Jagjeet Singh who happens to be the husband of Varinder Kaur were allowed vide orders dated 17.08.2023 and 22.05.2023 (Annexures P-3 and P-4 respectively). In the instant case also, multiple opportunities had been given to the petitioner to produce the Caste Certificate of his father-Jatinderpal Singh which he had refused to do. Therefore, as he had been non-cooperative during the course of investigation and the offence stands *prima facie* established on the basis of the material collected in support of the allegations, the petitioner was not entitled to the concession of bail.

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7. 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***

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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. A perusal of the investigation conducted so far would clearly reveal that the petitioner's forged Scheduled Caste Certificate was used to prepare a similar Certificate of his sister-Varinder Kaur. The petitioner's Scheduled Caste Certificate was not prepared on the basis of the original Certificate issued in favour of his father, despite the fact that the petitioner has categorically stated that his father's Certificate was prepared 40 years ago. In addition, the statements of various family members of the petitioner have been recorded who have categorically stated that they did not belong to the Scheduled Caste but are "Lohar" by Caste which falls under the "Other Backward Caste" category. Despite multiple opportunities being given to the petitioner in the instant FIR and his brother-Manjeet Singh in FIR No.06 dated 06.01.2021, they have refused to produce the original Scheduled Caste Certificate showing their father-Jatinderpal Singh to belong to the Scheduled Caste category. Therefore, they are deliberately stone-walling the

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investigation. Even otherwise, on the basis of the evidence on record, a *prima facie* offence is certainly made out. Further, the custodial interrogation of the petitioner is certainly necessary to take the investigation to its logical conclusion.

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

10 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

February 09, 2024
sukhpreet

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