



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45071-2024 (O&M)
DECIDED ON: 11.09.2024

MOHD. ARSHAD

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Rosi, Advocate
for the petitioner.

Mr. Chetan Sharma, D.A.G., Haryana..

SANDEEP MOUDGIL, J (ORAL)

CRM-36579-2024

This is an application under Section 528 of BNSS for exempting the petitioner from filing the certified/typed copies of Annexures P-1 and P-2.

For the reasons mentioned in the application, the same is allowed and Annexures P-1 and P-2 are taken on record, subject to all just exceptions.

Application stands disposed of.

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.94,

dated 05.04.2024 (Annexure P-1), under Sections 420, 406 and 34 of IPC, registered at Police Station Sadar Tauru, District Nuh.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

*“To Mr. Anil Vij. Minister, Haryana Government,
Subject: Application Against Sajid son of Shahid resident of Village Ferozepur Namak and Arshad Hussain son of Juhru resident of Bubhalhedi, Tehsil Pingawan, District Nuh and other Maulvis regarding cheating. Sir, I request that I. Tahira wife of Arshad is a permanent resident of Village Bhadangpur, Tehsil Tawadu, District Nuh and I am a housewife. That Sajid is my uncle and Arshad Hussain is Sajid's maternal uncle's son who came to meet me at my house about 2 months ago and talked to me and my family members about getting poor girls married and said that we have come to Village Kankarka to give kanyadan of daughter in marriage of a girl from a poor family and took my husband Arshad in his trap, after which my husband got him permission to open an office in the Panchayat house with the permission of the Sarpanch, after which the culprits opened their office in Village Bhadangpur about 15-20 days ago. I came to know from Sajid that these people work to get donations from their organization for the marriage of the daughters of poor people. The culprits also got their advertisement published on a private YouTube channel Aaj Tak which belongs to Arshad Bisru. The culprits told the names of their organizations as Al Aqfiya Foundation and Ghaziul Hind Foundation, who used to take Rs 115000 per person in return for getting donations from the organizations and used to say that our organization gives Rs 71000 as Kanyadan, a bike and all household items in the marriage of a girl from a poor family. I belong to a poor*

family. Therefore, we also talked about the marriage of my sister-in-law in front of the accused Sajid, then he said that your sister-in-law is also my niece, I will get you Rs. 115000/- Swift car from my organization, so we gave him Rs. 115000/- in cash at our house on dated 26/11/2023 and my husband's acquaintance Sabir also gave Rs 115000/- in cash on dated 27/11/2023 through his uncle Mubeen and his father Abdul Ghani and Samsu and Mubeen, in front of Bhadangpur resident Sajid son of Shahid, the accused told everyone that he will get the goods by depositing money with Arshad Hussain in Chopra and went away after which our trust in him increased more due to his publicity on Mewat Aajtak and Sabbir son of Ghani also deposited 115000/- cash to Sajid on dated 08.12.2023 for the marriage of his uncle's daughter along with his uncle Dinu and his wife Khairam and his son Asif, The accused also gave everyone the date of marriage as 08/03/2023 The accused said that he will get the Kanyadan amount and all the goods in a day or two. The accused also called Sahun son of Manna resident of Raniata Ferozepur thirka, who worked as a driver with my father Habib, on the pretext of Bhadangpur office and gave Rs. 230000/- for the marriage of the daughters of Seema widow Subrati and Rukmu son Mukhtiyar to Sajid in front of Sohrawa, Akbar, Rasheed. Abdul, Yunus, etc. on dated 09/12/2023. On dated 11.12.2023, when my husband and Sabbir went to the accused, the office was closed. I came to know that the accused have cheated all of us. After which the accused fled from the village, after which his acquaintances talked about returning the money in the Panchayat, but they are also encouraging the accused in cheating. The accused have made many people their victims. Therefore, it is requested to the gentleman that a

case should be registered against the said accused and legal action should be taken and our money should be recovered. Your kindness will be there. SD Tahira, Tahira wife of Arshad Village Bhadangpur, Tehsil Tawadu, District Nuh. 9518828201 Today Police Station: Letter No. 423-D. dated 12.02.2024 Deputy Superintendent of Police Nuh along with complaint No. 04-11M dated 05.01.2024, 28-DGP dated 05.01.2024, 01-PMOPG dated 02.01.2024 on receipt at the police station by post, from the essence of the complaint and the above letter, crime section 420, 406, 34 IPC was found to have occurred, case number- 94 dated 05.04.2024 section 420, 406, 34 IPC IPC Police Station Sadar Tawadu will be registered and complete copies of FIR will be prepared on CCTNS by computer and sent by post to the service of Area Magistrate Assistant or higher officials. The copy of the complaint along with the original letter has been received by the ASI along with the police, investigation of which will be carried out further”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that petitioner is innocent and has not committed any offence and allegations levelled against the petitioner as mentioned in the FIR are false and only allegation against the petitioner is that of receiving money on account of being involved in charitable activities focused on arranging marriages for poor girls and no other incriminating material is coming forth against the present petitioner for making out an offence under Section 420, 406, 34 IPC.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the prayer for grant of anticipatory bail by arguing that there are specific allegations against the petitioner and to unearth the same custodial interrogation of the petitioner is required and moreover, co-accused namely Sajid has not been arrested yet, who is involved in this racket.

4. **Analysis**

Be that as it may, no case has been put forth before this Court to make it for custodial interrogation against the present petitioner having received money as per the allegations in the FIR on 26.11.2023 and the major part of the same was actually handed over by Tahira to Sajid i.e. Rs. 1,15,000/- in cash, whereas assertion of the complainant Tahira also cannot be ignored to the effect that she also paid an amount of Rs.1,15,000/- in cash on 26.11.2023 on account of expenses to be met out for solemnization of marriage including Kanyadan, which included the motorcycle and other household articles.

5. **Decision**

In the light of above, it is no case, where the petitioner could be send behind bars, who otherwise if permitted to grant the concession of anticipatory bail. Therefore, the petitioner is directed to be released on anticipatory bail subject to their joining investigation with the Investigating Officer concerned within a period of 10 days from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such

directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) a condition that the person shall not leave India without the previous permission of the Court;*
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within 10 days, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

11.09.2024
Mani Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>