

2024:PHHC:156325



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45922-2024
DECIDED ON: 16.09.2024

HARJINDER SINGH @ RAJU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J

1. **Relief Sought**

The jurisdiction of this Court under Section 482 BNSS, 2023 has been invoked seeking anticipatory bail to the present petitioner in FIR No. 123 dated 02.08.2024 under Sections 318(4), 336(2), 336(3), 337, 338, 349, 351(2), 61(2) of BNS 2023 registered at P.S. B Division, District Police Commissionerate Amritsar, Punjab.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘Statement of Daljit Singh S/o Harbhjan Singh R/o H. No. J- 18/1001, Bhai Manj Road Near Railway crossing a Kot Mit Singh, Tarn Taran Road, Amritsar, aged about 46 years, Mobile No. 87280-42143.

Stated that I am resident of above mentioned address and retired from Army in 2017. That I was in need of a car for my domestic use and I wanted to purchase a second hand car. That on dated 08/07/2023 | talked to Harjinder Singh @ Raju S/o Sukhdev Singh R/o H. No. 20, Street No. 15 Kotmit Singh, Bhati Nunj Sahib Road who is my neighbouror and working as a dealer of vehicles that I am in need of car. Then he told me that there is a INNOVA Car of 2018 model in a very good condition, if you want then tell me. Then I told Harjinder Singh @ Raju that I want see the car. Then in front of me called Harjagdeep Singh Grewal @ Deepak S/o Manjit Singh R/o H. No. 8479, Street No. Kot Baba Deep Singh, Amritsar and they took me to Amritsar Rural Police Line, Daburji, where Sandeep Singh R/o Vairawal Road Jandiala Guru Amritsar met them, who handed over the key of INNOVA Car No. PB-11-CH-4073, Colour Brown to Harjagdeep Singh. I liked the Car and our deal was settled for on 15,000,00/- (15 Lakh). They told me that there is a loan of 8,00,000/- (8 Lakh) pending on the car and we will get NOC after clearance of loan. That I came in their words and I along with my friend Bikramjeet Singh S/o Iqbal Singh R/o H. No. 2666,. Street No. 23, New Kot, Amritsar went to the houses of Harjinder Singh Raju and Harjagdeep Singh and gave Rs, 14,00,000/- in cash Jatinder Singh @ Saabi S/o Manjit Singh R/o Sultanwind Road, the friend of Harjagdeep Singh Grewal was already present in house of Harjagdeep Singh Grewal. Then they handed over me R.C No. PB-11-CR-4073 on which Chasi No. MBJAAEM2007144307 and engine No. IGDA244096 was written Car registered on the name of Simranjeet Dhillon S/o Harmeet Singh R/o Shekupra, Patiala. When I demanded NOC from them then they told me that NOC will come in few days and as and when NOC has been delivered to you then you will pay the remaining amount of Rs. 1 Lakh and at that time we will provide you sale affidavit and other documents of the Car. So I took INNOVA Crysta car No. PB-11-CR-4073 of 2.8 Z in colour brown from them. Till date continuously asking of papers and other documents of Car from them that either give documents of the Car or give my money

back but still they neither provide me complete documents of the Car nor returned my money. Then I doubted about the fake number of the Car. I checked the fancy number of the Car and found there MBJAAEM200790599-1018 Chasis No was written on it. Then I compared the chassis No with number given on RC. There is lot of difference among both of them. Then I got worried that this is a stolen Car. I told to Harjagdeep Singh Grewal and Harjinder Singh Raju to take their car back and return my money. But they did not return my money. Although they started filling false complaint against me and started giving me life threats. Then I investigated about the car by myself and got checked the details of Chassis Number on the Car then It is found that its original registered No is PB-65-AU-9990 which was registered in the name of Jagroop Singh S/o Kirpal Singh R/o H. No. 448, Sector 2 Mundi Kharar, Mohali. That Harjinder Singh @ Raju, Harjagdeep Singh Grewal and Sandeep Singh under their conspiracy sold me a Car with fake number plate and whose Chassis number was tempered and committed fraud and cheating with me of Rs. 14 Lakh and given me the forged RC document. That I am delivering my car and its RC to you. That action to be taken against them. Statement is written and heard. Amajeet Singh, P.S B Division, Amritsar, dated 02.08.2024. Today 1 ASI along with ASI Sharanjeet Singh No. 3635/ASR, CT Rashpal Singh No. 930/ASR, HC Surjinder Singh 2598 were present in the police station. Daljeet Singh S/o Harbahjan Singh came to police station and got his statement recorded which was got typed and print and read to him. Who after finding the statement to be correct signed it in English. Daljit Singh handover the INNOVA Crysta Car with No. PB-11-CR-4073 colour brown and RC of the Car. Separate Memo was prepared taken into the custody of the police. Chassis Number was checked of the above Car. Chassis No. Of Car was MBJAA3EM200790599-108 and its MAJAAEM2007144307 given on the RC.As per the statement of Daljit Singh and my investigation it is found the offence U/s 318 (4), 336 (2), 336 (3), 337, 338, 349, 351 (2), 61 (2) BNS. FIR to be registered against Harjinder Singh @ Raju, Harjagdeep Singh

Grewal and Sandeep Singh statement is sent dasti for registration of FIR. Head Munshi is requested to registered FIR and original statement be sent back to him. Special reports be sent to Senior Officers.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the role attributed to the petitioner is only of introducing the complainant to co-accused Harjagdeep Singh Grewal, who further introduced complainant to Sandeep Singh, who brought the car in question for selling to the complainant. It is further contended that petitioner had no knowledge that the co-accused Harjagdeep Singh Grewal and Sandeep Singh planned to sell a stolen vehicle. The petitioner neither signed any sale or purchase document nor did he prepare false documents. Usually, the car dealers only introduce buyers and sellers, then collect their commission on the sale price. Interestingly, the co-accused Sandeep Singh, who brought the vehicle is a Government employee, has settled the dispute with the complainant and the in the police inquiry, he has been declared innocent.

Notice of motion.

On behalf of the respondent/State

Mr. Jaspal Singh Guru, AAG Punjab, appearing on advance notice, accepts the same on behalf of respondent/State, who prays for dismissal of the present petition stating that the petitioner has committed serious offence. To know the modus operandi adopted for commissioning of offence and to elicit whether, more frauds have been committed by the petitioner, his custodial interrogation is required at this stage.

4. Analysis

The petitioner can be denied the concession of anticipatory bail on several key factors. Firstly, the tampering of the chasis number and the alleged sale of a stolen car to the complainant requires a thorough investigation. Additionally, the accusations of threat and the substantial amount of Rs.14 lacs involved suggests that this is a serious economic offence. Moreover further investigation may uncover a larger nexus of stolen vehicle, false documents and fraudulent sales.

Given these circumstances, this Court is of the firm view that custodial interrogation of the petitioner is necessary to understand his *modus operandi* and to determine, if he has committed additional frauds. The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant anticipatory. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand at this stage.

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.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in “State vs. Anil Sharma”; (1997) 7 SCC 187, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in

disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petitions, hence, the same are hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

16.09.2024
Sham

(SANDEEP MOUDGIL)
JUDGE

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