

2024.PHHC:155758



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45862-2024
DECIDED ON: 16.09.2024

RAJ KUMARPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CRM-M-45872-2024

2024.PHHC:155759



RAJNI @ RAJNI BALAPETITIONER

VERSUS

STATE OF PUNJABRESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Achin Gupta, Advocate
for the petitioner(s).

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court under Section 482 BNSS, has been invoked seeking anticipatory bail to the present petitioner in FIR No. 188 dated 29.08.2024 under Sections 419, 420, 465, 467, 468, 471, 120-B of IPC, 1860 registered at P.S. City Kotakpura, District Faridkot.

Vide this common order, this Court shall dispose off both the above-said petitions.

Just to avoid repetition, the facts of the case are taken from CRM-M-45862-2024.

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

'Today an application No. 1217-PC-8/24 dated 02.07.2024 by Virpal Kaur etc. Mobile: 90410-29108, against Rupinder Kaur Wife Gurmail Singh Resident House No. 498, Hari Nau Road, Kotkapura, Nirmala Rani wife of Krishna Lal, Raj Kumar son of Krishna Lal Residents of Village Giljewala, District Sri Muktsar Sahib, Rajni Bala wife of Raj Kumar Resident of Village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur wife of Dharamvir Singh Resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar, Faridkot, after investigation Deputy Superintendent of Police Sub-Division Faridkot, after comment Superintendent Police (PBI and Inve:) Faridkot upon orders of Hon'ble Senior Superintendent Police Faridkot was received at Police Station for registration of case, the contents of which are as under: "To, Hon'ble SSP Sahib, Punjab Police Faridkot, complaint against (1) Nirmala Rani (Mobile. 98788-90067) wife Krishna Lal, Rajni wife Raju Kumar (Mob. 90412-17201) (3) Raju Kumar S/o Krishna Lal r/o Chaoprean wala Bagh Gali No. 5 Kotkapura District Faridkot. (4) Parveen Kaur alias Inderjit Kaur alias Bandu, wife of Bittu Fauji Sahota alias Dharamvir Singh (Mob. 91154- 72625, 98760-02190, 85570-86253, 76961-78172, 77102-84952, 98783 - 09064 resident of Machaki Mall Singh road, Teacher Colony Street No.4 Near Gurdwara Sahib Ishar Prakash District Faridkot (5) Manpreet Singh (Mob. 94170-28076) son of not known (6) Angrez Singh alias Bantu son of Seera Singh (7) Seera Singh (Mob. 77102-84952) s/o not known r/o V. Marar, Tehsil and Distt. Faridkot (8) Duggal and Amarjit Kaur (9) Rupinder Kaur (Mob. 82849-26620) w/o Mela Singh regarding fraud of Rs. 80 lakh. Sir, regarding the

above subject I request that I am Virpal Kaur wife of Sh. Gurmeet Singh resident Dashmesh Nagar Jalalabad District Fazilka etc. That I met Nirmala Rani abovesaid at some wedding, who described herself as a finance worker. As I needed money, I agreed to take a loan from her side. Upon which she told me about the loan given by the Modi government and said that for this you have to make about members and all of them will get a loan from the government. 43 members were made and 60 lakh rupees were collected by all of us and deposited in different accounts of the persons under the said subject, the proof of which is available with us, and I am ready to present it as evidence on the spot. After which we have been harassed by the persons under the said subject for almost 2 years and they kept lingering on and neither our loan pass nor our principal amount is being refunded to us. We were deceived by the abovesaid and they asked for one and a half lakh rupees per person to pass the loan and then we gathered our relatives and some friends and with that we have got 43 members together, to whom they had to get the loan passed. Among them, few were very poor and they could not pay this money at the first instance, and then as the money was being collected, Nirmala Rani, wife Krishna Lal, kept coming and taking money from our house from time to time as we sold the combine and in this way also gave some money from our accounts, thus kept on depositing about 45 lakh rupees in their accounts online. Accounts in which 94171-39364, Manpreet Singh's account 94170-28076, Devinder Kaur Brar and 70557-57354, Sanjeev Kumar 98721-13974, Vijay Kumar (the details of which we can present as evidence. And then these persons kept on linger on us for almost 2 years, and we are having their phone recordings and we can present it as evidence. From this, the money of some persons has been returned by Veerpal Kaur at her own level by selling her house and articles of her house. Apart from me and 43 members, some other persons have been cheated by them of around Rs. 20 lakhs. Abovesaid persons now are threatening us and no one is picking up our phone. Abovesaid persons are now absconders and we do not know their whereabouts and the addresses given by them where they were

staying, now they are not available there. Please take strict action against abovesaid persons as they had made a gang and had cheated different persons for amount of about Rs. 80 lakhs and for deceiving us and our money be got returned. We all members belong to poor families and this amount is too big for us, due to which we are suffering financially and mentally. So please take action against abovesaid persons as soon as possible and our claim be satisfied. We shall be very grateful. Applicant Sd/-Virpal Kaur etc., Mob. 90410-29108, 80547-09800, 62394-84081, 96463-71921, 90412-42404 dated 01-07-2024 which was marked by Hon'ble SSP Faridkot vide letter no. 1217-PC-8/24 dated 02.07.20 24 UID NO. 374920 to DSP-FARIDKOT to club the Complaint and to take N/C. Sd/- Sr. Supdt of Police Faridkot, Division Faridkot sent the report to the office of Sr. Superintendent Police after investigation with his office number 574-PC/Reader dated 16-08-24 which is as follows, "During the investigation conducted by me so far and according to the statement of the applicant, the real names of these persons are Rupinder Kaur wife of Gurmel Singh, resident, house no. 498, Hari Nau Road Kotkapura, Nirmala Rani wife of Krishna Lal, Raj Kumar son of Krishna Lal Resident of Village Giljewala, District Sri Muktsar Sahib, Rajni Bala wife of Raj Kumar Resident of Village Giljewala, District Sri Muktsar Sahib, Kanta Rani Wife of Sunil Kumar s/o Sh. Daljit Kumar Resident of Dwareyana Road Near Glucose Factory Kotkapura and d/o Sh. Krishan Lal son of Sh. Mithan Lal resident of Giljewala, PS Kotbhai, District Sri Muktsar Sahib, Inderjit Kaur wife of Dharamvir Singh resident of Machaki Mall Singh Road, Guru Tegh Bahadur Nagar Faridkot, Angrej Singh son of Jagsir Singh Resident of Marar District Faridkot, Manpreet Singh son of Gurmel Singh Resident of Gandu Road Kothe Guru Ka Kotha Rampura Phool, Distt. Bathinda, Jagsir Singh son of Jagtar Singh Resident of Kothe Guru Ka Near Gurudwara Sahib, Rampura Phul District Bathinda, Satpal Singh son of Milk Raj Resident of House No. 650 Gali No. 06 Anand Nagri, Abohar, Harwinder Kaur wife of Jagdev Singh, resident of village Bambiha, Jangi Rana, Bathinda, Amarjit Kaur and Duggal

have been identified. As were tried to join them during the investigation of this application, but who knowingly did not participate during the investigation of this application and despite this, the opposite party Rupinder Kaur Rupinder Kaur wife of Gurmel Singh resident of House No. 498, Hari Nau Road Kotkapura, who has already been found to have gone abroad to Singapore before statement and the rest of the parties are not staying at their residential addresses. From which it is proved that the opposite party does not want to give their defence. From the investigation so far, Rupinder Kaur wife of Gurmail Singh resident of house number 498, Hari Nau Road Kotkapura, Nirmala Rani wife Krishna Lal, Raj Kumar son of Krishna Lal residents of village Giljewala District Sri Muktsar Sahib, Rajni Bala wife Raj Kumar resident of village Giljewala District Sri Muktsar Sahib, Inderjit Kaur wife of Dharamvir Singh Resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar Faridkot by conniving with other persons and by concealing their real identity, got prepared a fake certificate experience and got a loan of 15-20 lakhs in relation to the schemes of the Government of India and by giving greed of subsidy of 5-7 lakhs under the scheme of the Government of India, it has been revealed that the applicant and the members made by the applicant were cheated of Rs. 86 lakh. Apart from this, the transactions in the account of Kanta Rani daughter of opposite party Nirmala Rani, have to be verified during the investigation. If any involvement of Kata Rani is revealed in this, then action will be taken accordingly. During the preliminary investigation, from the documents attached to the application and the statements, police case is made out. It is necessary to bring out the real facts by registering a case. Therefore, in the said case, role of Nirmala Rani, wife of Krishna Lal, Raj Kumar, son of Krishna Lal, residents of village Giljewala, District Sri Muktsar Sahib, Rajni Bala, wife of Raj Kumar, resident of village Giljewala, District Sri Muktsar Sahib, Rupinder Kaur, wife of Gurmel Singh, resident of house number 498 Hari Nau Road. Kotkapura, Inderjit Kaur wife Dharamveer Singh, resident of Machaki Mall

Singh Road, Guru Teg Bahadur Nagar, Faridkot has come out. So, case be registered against Rupinder Kaur, wife of Gurmail Singh, resident of house number 498, Hari Nau Road, Kotkapura, Nirmala Rani, wife of Krishna Lal, Raj Kumar, son of Krishna Lal, resident of village Galjewala, District Sri Muktsar Sahib, Rajini Bala wife of Raj Kumar resident of village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur Wife of Dharamveer Singh resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar, Faridkot under sections 419/420/465/467/468/471/120-B of Indian Penal Code should be registered at Police Station City Kotkapura and investigation should be carried out. During the investigation, if the involvement of other persons is revealed in it, they should also be joined in the investigation. Therefore, if accepted, orders be issued to register a case against accused Rupinder Kaur wife of Gurmel Singh resident of house number 498, Hari Nau Road Kotkapura, Nirmala Rani wife of Krishna Lal, Raj Kumar son of Krishna Lal residents of village Giljewala, District Sri Muktsar Sahib, Rajni Bala wife of Raj Kumar resident of village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur wife Dharamvir Singh resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar Faridkot under the said sections at Police Station City Kotkapura. The report is submitted for appropriate orders. Sd/- Deputy Superintendent Police, Sub-Division, Faridkot Dated 16.08.2024 and Deputy Superintendent Police, Sub-Division, Faridkot has prepared his report vide No. 574-PC/R/ Deputy Superintendent Police, S.D., Faridkot dated 16-08-2024 sent to the office of Hon'ble SSP Sahib Faridkot, on which Hon'ble Senior Superintendent Police Faridkot has marked to SP(D)- for Comments Sd/- Sr. Supdt of Police Faridkot on which the Superintendent of Police (PBI and Inv:) Faridkot has written in his report that, "It is requested that the inquiry sent by the Deputy Superintendent of Police (PBI and Inv:) Faridkot after investigating and the report has been marked for comment by the undersigned. On reading this application, it is found that this application is filed by the abovesaid Virpal Kaur against Nirmala Rani wife Krishna Lal resident of Chouparia Wala

Bagh Gali No. 05, Kotkapura etc. has been given regarding fraud of Rs. 80 lakhs with her. From reading the investigation report, application, statement and attached documents by the undersigned, it is revealed that Rupinder Kaur, wife of Gurmel Singh, resident of house number 498, Hari Nau Road Kotkapura, Nirmala Rani wife of Krishna Lal, Raj Kumar son of Krishna Lal resident of Village Giljewala, District Sri Muktsar Sahib, Rajni Bala wife of Raj Kumar resident of Village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur wife of Dharamvir Singh resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar Faridkot by conniving with other persons and by concealing their real identity, got prepared a fake certificate experience and got a loan of 15-20 lakhs in relation to the schemes of the Government of India and by giving greed of subsidy of 5-7 lakhs under the scheme of the Government of India, it has been revealed that the applicant and the members made by the applicant were cheated of Rs. 86 lakh. Apart from this, the transactions in the account of Kanta Rani daughter of opposite party Nirmala Rani, have to be verified during the investigation. If any involvement of Kata Rani is revealed in this, then action will be taken accordingly. Apart from this, if the involvement of other persons also comes to light regarding this matter, legal action will be taken against them during investigation. Therefore, the undersigned agreeing to the investigation report of Deputy Superintendent of Police (SD) Faridkot, it is recommended to register a case against Rupinder Kaur wife Gurmel Singh resident of house number 498, Hari Nau Road Kotkapura, Nirmala Rani wife of Krishna Lal, Raj Kumar son of Krishna Lal resident of village Giljewala, District Sri Muktsar Sahib, Rajni Bala wife of Raj Kumar resident of Village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur wife of Dharamvir Singh resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar Faridkot under 419/ 420/ 465/ 467/ 468/ 471/ 120B IPC at Police Station City Kotkapura and carry out investigation. The report is presented. SP (PBI and Inve.) Faridkot 26/08/24 SHO City KKP to register FIR & investigation Sd/- Sr. Supdt of Police Faridkot 27.08.2024. Today the said application

and investigation report received at the police station and the case has been registered under sections 419/ 420/ 465/ 4671 468/ 471/ 120B IPC against Rupinder Kaur wife of Gurmel Singh resident of house number 498, Hari Nau Road Kotkapura, Nirmala Rani Wife of Krishna Lal, Raj Kumar Son of Krishna Lal Resident of Village Giljewala, District Sri Muktsar Sahib, Rajni Bala Wife of Raj Kumar Resident of Village Giljewala, District Sri Muktsar Sahib, Inderjit Kaur Wife of Dharamvir Singh Resident of Machaki Mall Singh Road, Guru Teg Bahadur Nagar Faridkot and the case file is kept by ASI for further investigation. Copies of FIR's are being sent to senior officers and Ld. Illaqa Magistrate. Control Room is being informed through Wireless Message. Closing report no. 28 dated 29.08.2024 at 02:00 PM.'

3. **Contentions**
On behalf of the petitioner

Learned counsel for the petitioner(s) submits that the petitioner(s) has been falsely implicated in the present case by some inimical persons for vested interest and he has completely no connection with this alleged fraud in any manner whatsoever. He further submits that as per the story of the prosecution, complainant joined 43 members in the alleged committee and all were demanding their amount from the complainant, but the complainant succeeded in registration of this case against the petitioner and other persons just to save her skin.

It is contended on behalf of the petitioner(s) that neither any transaction has ever been done in the account of the present petitioner(s) nor he had ever received any amount from the complainant, but roped on account of the fact that he is the son of main accused namely Nirmala Devi, who has already been arrested.

On behalf of the respondent/State

Mr. Jaspal Singh Guru, AAG Punjab, appearing on advance notice prays for dismissal of the present petition on the ground that the allegation against the present petitioner(s) are serious in nature, therefore, custodial interrogation of the petitioner(s) is required.

Mr. Kanwaljeet Singh Brar, Advocate has put in appearance on behalf of the complainant and has filed Power of Attorney, which is taken on record. He prays for dismissal of the present petition on the ground that petitioner(s) in connivance with other co-accused has concealed their real identity and was prepared fake skill certificates, therefore, committed fraud of Rs.86 lacs.

4. Analysis

This court cannot ignore that *prima facie* the offence against the petitioner(s) can be made out as they in connivance with other co-accused persons has concealed their identity, prepared fake skill certificates and therefore, committed fraud of Rs.86 lacs with the members by alluring these members with getting subsidy of Rs.5-7 lacs in the Indian Government Scheme of Rs.15-20 lacs. Hence, *prima-facie* offence under Section 419, 420, 465, 467, 468, 471, 120-B are made out against the petitioner(s). Such an allegation certainly requires adequate and intense investigation to unearth the truth. The mere contention that the petitioner(s) are ready and willing to join the investigation does not vest a right for grant anticipatory. The case made out against the petitioner(s) 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(s) 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.

A copy of this order be placed on the file of another connected case.

(SANDEEP MOUDGIL)
JUDGE

16.09.2024

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