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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-48357-2023 (O & M)
Date of decision:24.01.2024

Peter Masih Sahota

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vinay Puri, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

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.86 Dated 13.07.2023 under Sections 406, 420 IPC and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014 registered at Police Station Kartarpur, District Jalandhar.

2. The brief facts of the case are that a complaint was filed by one Sharanpreet Kaur daughter of Baldev Singh and reads as under:-

“12. First Information contents (Attach separate sheet, if necessary):

Complaint No 1065-PTM Dt 20.03.2023 To the service of Honourable SSP Sahib Ji, Jalandhar Rural Subject - complaint against agent Peter Sahota resident of village Beta Jalandhar (8-99144-64357) Agent Sakattar Singh Bhullar (MO-98142-34044) Regarding defrauding a resident of Firozpur of Rs. 60,00,000/- in the name of sending me abroad. Sir, I request that I Sharanpreet Kaur, daughter of Baldev Singh, is the resident of Dheerpur, Jalandhar, Punjab 144803, the incident is that I had wanted to go to America for a long time. Regarding

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which I spoke to agent Sikandar Singh Bhullar resident of Ferozepur. Many of my family members have gone out due to this agent. Then he introduced me to an agent named Peter Sahota. The said agent Peter Sahota told me that he will send you to America properly via Europe, the total cost of which he told me was 32 lakhs. I and my family gave consent to the said agent to proceed with the visa process. That after some time he got my biometrics done. After which he said that your refusal has arrived. He said that now I will send you via Dubai. Then the said agent booked my Dubai ticket for 29th March 2022 and sent me to Dubai. 26 days after reaching Dubai, the said agent sent me to Baku, Azerbaijan on 26th April. From Baku, the said agent again sent me to Turkey via Delhi on 25th May. After reaching Turkey, the said agent kept me at the Turkish airport for about 3 months. Where I faced a lot of difficulties. After so much trouble, the said agent sent me to Serbia after 3 months. After going to Serbia, I stayed for at least 20 days. The said agent told me to send you via flight to Mexico, which he did not do. That instead of sending me to Mexico, he got me booked through Hungary and Austria through doki I faced a lot of difficulties even. After crossing the border of Austria my docker told my agent about the donkey fee of Rs 4.5 lakh, but the said agent refused to pay him the money. After which my docker beat me badly. The said decker got angry and got me raped by his associates. My family came to my rescue and got Rs 9 lakh 25 thousand from that agent so that I could cross the border of Austria. After I crossed the border, the said agent demanded another Rs 1.25 lakh from my family, which my family transferred to him in the bank. I reached Austria on 2nd August 2022 and after staying there for two days, the said agent sent me to Germany on 4th August 2022. As soon as I reached Germany, the police there arrested me and when they searched me, they found fake German documents which were given to me by the said agent. Due to having fake documents, the German

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police said that we will prosecute you or you can pay the fine and go back to India. To get my bail from the German airport, my family paid the fine which was 7600 Euros (7,00,000/- Rupees) but I returned to India on 16-03-2023. I felt so sad that even after I and my family paid Rs. 40,00,000/-, I still did not reach America. After returning. I went to the house of the said agent Peter Sahota on the evening of 17.02.2023 and I went to his house and made a lot of noise, abused and even broke the glass but the said agent came out. That in this regard the said agent Peter Sahota lodged an application at Jamsher police station against me by saying that I had gone to his house and abused him and broke his property. ASI of Jamsher police station has hand in gloves with the said agent and he is also threatening me that I will be locked in Jail by him. The police administration is not listening to me. Even after I paid Rs 40 lakh, I was not sent to America by the said agents. That agent Sikandar Singh Bhullar resident of Firozpur had also applied for my PR of Canada in the year 2018. For which he took Rs. 12,00,000/- from me and said that your PR has been filed. But the next day he said that the agent has kept your passport and you should get a new passport made. We spent Rs 3,00,000/- and got new passports made. That now both the said agents are threatening me and my family with causing harm to my life and property and if any incident happens to me or my family, then the said agents will be held responsible. Therefore, I request you to take the strictest action against the said agents and return the total amount due to me, which is Rs. 60,00,000/-, and provide me justice. I will be thankful to you. Your well-wisher. SD-Sharanpreet Tatt”.

3. Based on the aforementioned complaint, an enquiry was marked to DSP (Headquarters), Jalandhar (Rural) and the relevant extract of the same is as under:-

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“The enquiry conducted by me so far in respect to the application, the allegations against Sakattar Singh Bhullar son of Piara Singh, resident of Navi Abadi, Zira Gate, Police Station City Ferozpur, District Ferozpur for committing cheating of Rs. 12 lakh with the applicant Sharanpreet Kaur for sending her and her family to Canada are proved and thereafter, the cheating of Rs. 31,48,000/- on the false inducement of sending applicant Sharanpreet Kaur to America in connivance with the respondent Peter Sahota son of Bachan Masih, resident of Dheena, Police Station Sadar Jamsheer, Jalandhar Commissionerate is also proved. If approved, directions may be issued for the registration of the case under section 406, 420 IPC and Section 13 Punjab Travel Professionals Regulation Act 2014 at Police Station Kartarpur against Sakattar Singh Bhullar son of Piara Singh, resident of Navi Abadi, Zira Gate, Police Station City Ferozpur, District Ferozpur and Peter Sahota son of Bachan Masih, resident of Dheena, Police Station Sadar Jamsheer, Jalandhar Commissionerate. Beside that, no facts were found relating to the making of the physical relation with the applicant Sharanpreet Kaur. The money which was given by the applicant Sharanpreet Kaur to the various agent on saying of the respondent Peter Sahota or she had spent on her living in the various countries or other expenses borne by the applicant is required to investigated during the investigation.”

4. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The incident complained of pertained to the year 2022 but the present FIR came to be registered much later on 13.07.2023. The attempt was to blackmail the petitioner. It was the complainant who had come in contact with human traffickers with a view to travel abroad illegally. The petitioner had not

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allured her (complainant) in any manner. In fact, he was an agriculturist and not a travel agent. As the petitioner was ready and willing to join the investigation, he was entitled to the concession of anticipatory bail.

5. The learned counsel for the State, on the other hand, while referring to the reply dated 30.10.2023 contends that the petitioner alongwith his co-accused Sakattar Singh Bhullar had cheated the complainant and her family members of a huge amount of money. The allegations against the accused were serious in nature pertaining to human trafficking. Offences of this kind were on the rise where innocent persons were misled into parting with their hard-earned money and thereafter, sent abroad illegally on forged documents. In fact, the trafficked person is arrested, as in the present case, and deported. She was also subjected to inhuman treatment. The petitioner was also involved in multiple cases of a similar nature. As the offence was *prima facie* established against him, recovery of Rs.40,00,000/- is to be effected from him and the investigation is to be taken to its logical conclusion, he was not entitled to the concession of anticipatory bail.

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

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

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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.***

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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 complaint and the enquiry report of the DSP (Headquarters), Jalandhar (Rural) culminating in the FIR in question would show that the petitioner and his co-accused Sakattar Singh Bhullar have cheated the complainant and her family members of a huge amount of money on the pretext of sending her abroad. She was arrested, ill-treated at various stages of her travel and was subsequently deported. The allegations levelled against the petitioner and his co-accused are indeed serious in nature. In order to facilitate a fair and thorough investigation, the custodial interrogation of the petitioner is certainly necessary. Even otherwise, as the offence stands *prima facie* established from the record, no ground for the grant of anticipatory bail is made out.

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

January 24, 2024
sukhpreet

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