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**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.46401 of 2024
Date of Decision: 18.09.2024**

Baljinder Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ranjit Singh Sidhu, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for the grant of anticipatory bail to the petitioner in case FIR No.112, dated 28.08.2024, under Section 420 IPC, registered at Police Station Barnala, District Barnala.
2. Succinctly the facts of the case are that the complainant and other similarly situated persons lodged a complaint with the police wherein it was alleged that Baljinder Kaur and her husband, namely, Gurdeep Singh had been collecting money from last more than two years with the intention of cheating the women of their village. They were told that they have relations with very big company and thus, the



complainants were allured to pay the amount and with an assurance that double of the same would be returned to them after two years. The complainants fell in their trap and thus deposited the amount with them on various dates. However they found themselves cheated for more than Rs.25,00,000/-. It was alleged that when the applicants demanded their money back from Baljinder Kaur, she did not return the same. It was alleged that Baljinder Kaur had defrauded the people of village Cheema and other villages to the tune of Rs.1,19,46,400/-. Thus the request was made to take the legal action against Baljinder Kaur. On the basis of the complaint filed, the FIR was registered and the investigation commenced. The petitioner apprehending her arrest, approached the Court of learned Sessions Judge, Barnala praying for the grant of anticipatory bail. However on hearing both the sides, the learned Sessions Judge, Barnala finding no merit in the same, dismissed the same vide his order dated 10.09.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition for the grant of pre-arrest bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that it is improbable that the complainant and other ladies have paid an amount of Rs.25,00,000/- without any receipt against the alleged amount to the petitioner. He has submitted that husband of the petitioner had registered one FIR against Kala Singh, Geeta Rani, Gurpreet Singh, Neelam Kaur @ Babli, Narenderpal



Singh and Wahegurupal Singh @ Gora under Section 306 IPC dated 11.03.2024 at police station Barnala in the case pertaining to the suicide committed by father-in-law of the petitioner. He thus has submitted that as an act of *vendetta*, the present FIR has been lodged against the petitioner. He has submitted that the complainant and her husband had already taken the money of the committee but under the greed they have lodged the present FIR. He has submitted that lodging of the FIR against the petitioner is totally the misuse of the power of the police and in view of the allegations made in the FIR, the dispute is of a civil nature and thus, there being no *prima facie* case against the petitioner, the petitioner deserves to be granted anticipatory bail.

4. Notice of motion.

5. On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent-State. He has vehemently opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner has not duped only the complainant but there are 13 other complaints against the petitioner and as per the investigation conducted so far, the petitioner has duped all these victims to the tune of Rs.1,19,46,400/-. He has submitted that the investigation is under progress and granting anticipatory bail to the petitioner would adversely effect the ongoing investigation.

6. Heard.



7. On hearing learned counsel for the parties and perusing the record, it is apparent that the allegations made in the FIR are by various complainants. In all, as submitted before this Court, there are 13 complaints against the petitioner wherein the victims have been allegedly defrauded with the amount to the tune of Rs.1,19,46,400/-. The investigation is under progress. There is no gainsaying that the investigation is at threshold and granting anticipatory bail to the petitioner would scuttle the ongoing investigation.

8. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Sessions 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.

9. As per the law settled by the Hon'ble Supreme Court, in ***Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632***, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must



weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

10. The Hon'ble Supreme Court in ***State Vs. Anil Sharma, (1997) 7SCC 187***, held as under:-

"6.We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable 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 materials 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 need 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.

11. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been prima facie found. The investigation is at its threshold. The allegations made during the investigation are found to be serious. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

12. In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.09.2024
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(RAJESH BHARDWAJ)
JUDGE

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