



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.47809 of 2024
Date of Decision: 24.09.2024

Mujeebur Rehman Khan ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhinay Goel, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
219	03.07.2024	Bhondsi, District Gurugram, Haryana	419, 420, 467, 468, 471, 120-B and 201 of IPC and 12 (1) of Passports Act, 1967 (For short “Act, 1967”)

2. As per the prosecution case, on 03.07.2024 a secret information was received to the effect that the accused Rakesh alias Rakesh Kala alias Kala Kherampuriya who was involved in several

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heinous crimes and was convicted to undergo imprisonment for life by the Court of Sessions Judge, Bhadra, District Hanumangarh, while on parole had got prepared passport on the basis of forged documents prepared in connivance with other persons and had absconded abroad. It was also informed that the passport which was used by him for absconding had been issued on the identity of one Parveen Kumar son of Suresh Kumar, resident of Village Bhondsi, District Gurugram. On receipt of this information, a case under Sections 419, 420, 467, 468, 471 read with Section 120-B of IPC and Section 12 (1) of Act, 1967 was registered. Investigation proceedings were initiated. During investigation, the accused Gurmeet and Rakesh alias Rakesh Kala were arrested. They suffered disclosure statements admitting their involvement in getting issued passport in the name of Parveen Kumar on the basis of forged documents and also took the name of co-accused Sarvesh Saini and Rajesh. They were also arrested. The accused Rajesh, on interrogation, disclosed that the present petitioner was acting as an agent for issuance of passports outside the office of Regional Passport, Delhi and it was with his connivance that passport was got issued in favour of accused Rakesh on the basis of forged documents and false identity. It was also revealed that the petitioner had taken commission for a sum of Rs.1,90,000/- for getting the passport issued. Investigation is underway. Apprehending his arrest, the petitioner had moved an application for grant of anticipatory bail which was dismissed by the Court of learned Additional Sessions Judge, Gurugram vide order dated 09.09.2024.

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been falsely implicated in this case. He never met the accused Rakesh @ Rakesh Kala. He is an old aged person suffering from coronary artery disease and is still undergoing treatment. He is bed ridden since 18.01.2020 and has not been able to go anywhere. Therefore, question of his being involved in issuance of any passport on the basis of false documents and identity in favour of the accused did not arise. His custodial interrogation is not required. He is ready to join the investigation. No recovery is to be effected from him. Hence, it is urged that he deserves to be extended benefit of pre arrest bail.

4. Mr. Arjun Lakhanpal, Addl. AG, Haryana who has advance notice of the petition and is ready to argue the matter, has submitted that there are serious allegations against the petitioner. For conducting thorough investigation in the matter, his custodial interrogation is must. No exceptional or extraordinary circumstance has been made out to extend benefit of pre arrest bail to him even otherwise. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. As per the allegations, the petitioner in connivance with the co-accused was involved in the work of getting passports issued on the basis of forged documents and in case of co-accused Rakesh alias Rakesh Kala also, he has got issued a passport on the basis of false and forged documents and by using the passport so issued, the co-accused Rakesh alias Rakesh Kala had absconded but was later on arrested. The allegations against the

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petitioner are serious in nature. The case is still at its nascent stage. For the purpose of eliciting information as to the modus operandi adopted by the petitioner and the co-accused for the purpose of getting passports issued on the basis of false/forged documents and for conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered

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opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

24.09.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No