



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

CRM-M-48474-2024

Date of Decision: September 26, 2024

MALA RAM

....Petitioner(s)

VERSUS

STATE OF HARYANA

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pawan Attri, Advocate for the petitioner.

Mr. B.S. Virk, Senior DAG, Haryana.

SANDEEP MOUDGIL, J.(ORAL)

1. Relief Sought

The jurisdiction of this Court under Section 482 Bhartiya Nagrik Suraksha Sanhita, 2023, has been invoked seeking the concession for the grant of anticipatory bail to the petitioner in FIR No.145 dated 22.07.2024 under Sections 318(4), 319(2), 338, 336(3), 340(2), 61(2) of Bhartiya Nayaya Sanhita, 2023 registered at Police Station City Thanesar, District Kurukshetra.

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

'Sir, an order No. 720 dated 20.07.2024 was received from the Hon'ble Court Smt. Aradhana Sahni, Sessions Judge, Kurukshetra at through post at the Police Station which is enclosed: To The Superintendent of Police, Kurukshetra Sub: Request to investigate the matter and lodge FIR. Sir, It is submitted that a Sessions Case bearing No. 193/2023, arising out 20.05.2023, u/s 436 IPC. of FIR P.S. No.197 dated Sadar



Pehowa, registered against accused Hardev Singh, son of Sardar Singh, resident of Dhoopsadi Plot, village Mohanpur, Pehowa, District Kurukshetra, is pending in the Court Kurukshetra. of learned Sessions Judge, Accused was enlarged on bail by the Court vide order dated 25.09.2023. In terms of the said order, Vimal Kumar, son of Shri Darshan Singh, resident of Ward No.7, near Aman Palace, Kurukshetra and Om Parkash, son of Shri Ram Kala, resident of village Mathana, District Kurukshetra had stood sureties for accused Hardev Singh and furnished surety bonds in the Court on 12.10.2023. Their photos were also clicked in the SIMS software provided by the Hon'ble High Court for maintaining record of sureties. It is further submitted that on 16.10.2023, accused Hardev absented from the proceedings. His bail was cancelled and non-bailable warrants were ordered to be issued for securing his presence. In pursuit of notice issued by the Court, one surety Vimal appeared and penalty of Rs.50,000/- u/s 446 Cr.P.C. was imposed upon him, which was deposited by him. Subsequently, 20.05.2024, passed in CRM No. vide order dated 16600-2024, Hon'ble High Court had reduced the penalty amount to Rs.25,000/-. Accordingly, amount of Rs.25,000/- was refunded to surety Vimal. However, notices/hailable Warrants issued against other surety Om Parkash received back with the report that Om Parkash, son of Ram Kala, resident of village Mathana, District Kurukshetra has no concern with the case FIR No.197/2023 and he had never stood surety in the case. On 16.07.2024 identifier Mala Ram, Nambardar appeared in the Court and suffered Rana, son Randhir Markanda, District statement that infact Akash Singh, resident of Kheri Kurukshetra had furnished surety bonds in the name of Om Parkash, son of Ram Kala, resident of Mathana District Kurukshetra. After sometime, Mala Ram, Nambardar and above named Akash Rana along with ASI Mahender Pal



(executing official of warrants) appeared in the Court. Shri Ajay Kumar, Advocate (son of Shri Om Parkash, son of Shri Ram Kala) also appeared in the Court and his statement was also recorded that his father had never stood surety in the present case for accused Hardev Singh. Vide separate order dated 16.07.2024, passed in the above said SC No.193/2023, the Court has made the following observations:- "It is, thus, clear that identifier Mala Ram, Nambardar in conspiracy with Akash Rana, son of Randhir Singh, District Kurukshetra cheated the Court and forged the documents and committed offence of impersonation. "Copy of order dated 16.07.2024 (passed in SC No.193/2023) along with annexures enclosed. therein mentioned is also In view of the above, you are requested to get the matter investigated and lodge the FIR at the earliest, with intimation to the Court.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He submits that one Hardev Singh was granted bail under Section 436 IPC by the trial Court for which two persons namely Vimal Kumar and Om Parkash stood as sureties and the petitioner was the identifier of that sureties in good faith. He further submits that later on, when Hardev Singh failed to appear his bail was cancelled and sureties were summoned, thereafter the Court found that Om Parkash is in fact Akash Rana who impersonated himself as Om Parkash by giving forged documents. Thereafter, the Sessions Court, Kurukshetra in its order dated 16.07.2024 observed that the present petitioner being identifier is in conspiracy with co-accused Akash Rana. Learned counsel for the petitioner further submits that the petitioner being a gullible person was neither the part of any



conspiracy nor was aware of cheating and forgery that has been committed by the co-accused Akash Rana.

On behalf of the State

Learned State Counsel appearing on advance notice on instructions from Investigating Officer opposes the prayer for grant of anticipatory bail but not in a position to controvert the submissions made on behalf of the petitioner.

4. **Analysis**

Be that as it may, after giving a thoughtful consideration to the submissions as made by counsel for the parties and considering the role of the present petitioner wherein he on asking of Vimal (surety) has identified other surety namely Om Parkash in good faith and had no ill intention to cheat, being unaware of the fact that Akash Rana has impersonated as Om Parkash and the fact that no fruitful purpose would be served by sending the accused behind the bars, as such, this Court finds no reason to deny the concession of anticipatory bail to the petitioner as he is ready and willing to join the investigation and cooperate with the investigating officer for furtherance of the investigation.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioner is hereby directed to be released on anticipatory bail subject to him joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, upon furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating



Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of which are reproduced below :-

'When the High Court or the Court of Session 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.'

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically, stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

26.09.2024
Sangeeta

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