

**CRM-M-53109-2024**

214

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53109-2024

Date of Decision : 17.12.2024

Kala Singh Bhakhar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ashok Khunger, Advocate
for the petitioner.

Mr. Vinay Kumar Malhotra, DAG Punjab

Mr. Dhiraj Jindal, Advocate
for the complainant

KIRTI SINGH, J.(Oral)

1. Apprehending arrest in FIR No.206 dated 03.09.2024, under Sections 420 and 120-B IPC registered at Police Station Bhawanigarh, Sangrur, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.

2. The contents of the above-mentioned FIR are reproduced herein below :-

“To the SSP Sangrur, complaint against NO.9878731314, subject regarding Singh Kala 7986274133, Mobile 8968635813, daughter of unknown resident of village KhidkiWala, The seal and District Muktsar For duping us of Rs.15 lakhs and protect of and ment job giving us government further registering of an FIR under section 421 and regarding getting our money back and giving us justice, sir, the complaint under: We Mandeep Singh, is as son of Karamjit Singh, son



CRM-M-53109-2024

of Gurcharan Singh, resident of village Karan, Tehsil Bhavani district Sangrur and Kulwant Singh, son of Rajinder Singh, son of Ranjit Singh, resident of village Thandi, the Bhavani seal Garh District Sangrur That the sad accused were got introduced with us by one Sunil Kumar son of Mandeep Kumar, resident of village Karan, the seal Bhavani Garh District Sangrur. The accused person told us that he would get us recruited as a line man in the department of electricity. In this regard, he took us Rs.15,00,000/- Out of which Rs.70,000/- per person were asked in advance and remaining 6,80,000 per person, what to be given after joining letter from the electricity board, this person got fake ITI degrees from Indira Gandhi Institute Gurgaon and we got joining letter from the Sidak department on 16.04.2022 during this time, the said accused person procured the remaining Rs.6,80,000 from us. We have given the whole amount in cash and also in checks, he has taken Rs.50,00,00 from both of us that when the electricity board got our documents verified, our documents were rejected with marks that Degrees given by us were fake. So, we cannot join. We were depressed and talk to the accused when he said that he would get recruited in some other department, but now we feel that accused is a fraud and when we asked her money back, he started threatening us by telling us that we cannot Touch him in any way, and he would not return the money back and we can do whatever we want to do, he also started misbehaving and threatening us that he would kill us. If we ever ask her money back, so we are giving this present complaint to yourself with that above accused should be proceeded against and election should be taken against them and Rs.15,00,00 should be returned to us, signed Mandeep Singh son of Karamjit Singh, son of Gurcharan Singh, resident of village, Gharacho, Sangrur and Kulveer Singh son of Rajinder Singh son of Ranjit Singh resident of Jhanedi Tehsil Bhawanigarh District Sangrur. (90418-33657) (9872471000)

Application number PGD 362833 written by honourable SSP Sahib Sangrur ji to DSP (D) SGR To Verify and report as per fact and law.



CRM-M-53109-2024

The application is received by the DSP (D) Sangrur through Office No.1209/511/DSP 19.07.2024 has (D) Sangrur dated carried investigation, which is as out under: its To collect the witnesses present during the investigation, to the statement banks. It was read, that during the investigation, the applicant Mandeep Singh son of Karamjit Singh resident of village Gharacho wrote in his statement that I have done BA. Sunil Kumar Sharma son of Mandi Kumar of our village Gharache told me that Kala Singh son of Lahora Singh resident of village Dhikiyawala police station Kot Bhai District Muktsar is my friend who has a man with him who told me that he will give me a government job. Posts are coming up in Electricity Board. Because of this, you will get a government job in electricity board. And demanded Rs.7,00,000/- for one post from me and asked that Rs.70,000/- will be paid as advance and rest after joining letter. After which I spoke to my aunt's son Kulveer Singh son of Rajinder Singh resident of Jhaneri. So, he also told me that I will make sure the job. Don't take tension. Then I and Kulveer Singh gave the paper on 05/08/2021. It was decided that if we came in merit then Kala Singh had said that we will give Rs.1,50,000/1,50,000/- from both of us, we replied that we were talking about giving it at time of joining the job. So, Kala Singh started saying that if I can bring you in merit, I can also withdraw you from merit, so we got scared, so we took Sunish Sharma's responsibility Rs.1,50,000/1,50,000/- Rs.3 and Lakh through the cheque. About 2 months after this, got a call from the Patiala head office to submit our original certificate, but our original certificate was possessed by Kala Singh. When asked for we the original certificate from Kala Singh, Kala Singh started asking us for Rs.2-2 Lakhs, so we were trapped and we had to pay Kala Singh 1-1 Lakh, totalling Rs.2 Lakhs. On 13/10/2021, Rs.50,000/-were sent to Kala Singh's bank No.14181710004033 HDFC. Account Google pay and on in 14/10/2021 Rs.1,50,000/-was given to Kala Singh at Patiala. Kala Singh had returned our original certificates. When we checked the certificates, Kala Singh had put ITI certificates in both of our



CRM-M-53109-2024

names. And Kala Singh started saying that you should also give this certificate. After about 2 months, Kala Singh again started telling us that give me Rs.2/2 Lakh more, if you don't pay, I will remove you from the list, then we Sunil Sharma resident will be responsible for the same but both of them paid Rs.3,80,000/- Rs.1,80,000/- to Kala Singh's bank HDFC account No.14181710004033 dated 18/12/2021 and Rs.1,30,000/- Kulveer Singh had given the cash from his Artiyato cash at remaining our village Gharacho and the amount was to be paid after receiving the joining letter. After that on 16/04/2022 the electricity board department gave us a joining letter, then after that the remaining amount out of Rs.4,00,000/- on 24/05/2022 I gave from my account in Bank HDFC-I paid in 14181710004033 and paid Rs. 3,35,000/- in cash at our village Gharacho. In this cash payment, I paid Rs.1,35,000/- from my Aartiya 'Narinder Singh and Rs.2,00,000/- Kulveer Singh paid in cash. The fake certificate was given to us by Kala Singh, son of Lahora Singh, resident of Khidkianwa police station, Kot Bhai, Sunil Sharma son resident Muktsa. of of Prem Chand, village Gharacho, District us They have conspired with pretending taking to get Rs.14,00,000/-. a by government job by So kindly take appropriate action against them. During my investigation SO far, the witness statements, reading and receiving the bank statements and the official investigation of my intelligence, it was found that the applicants are Mandeep Singh son of Karamjit Singh resident of village Gharachon and Kulvir Singh son of Rajinder Singh resident of Jhanedi along with Kala Singh son. Lahora Singh, resident village Dhikiyawala, police station of Kot Bhai, district Muktsar, along with Sunil Kumar son of Mandi Kumar, resident of village Gharache, entered under the guise of a stole Rs.4,00,000/- a bank account government job and in cash. Kumar, resident of village Gharacho, to file case under Section 420, 120 IPC, and issue an appropriate order to the chief officer of Bhawanigad police station, and during the investigation, the said statement of Kala Singh, son of Lahra Singh, resident of village Khidkianwala, police station, Kotbhai

**CRM-M-53109-2024**

district. Muktsar has cheated. Therefore, according names Kumar of Raj resident of Dabwala Arniwala district, to Kala Singh, the son of Hari Chand, police station, Fazilka and Ramesh Kumar, resident of Bibana, have come up during the investigation regarding their role. investigation report in the service of Honourable Sangrur ji presented SSP Sahib”

3. Learned counsel for the petitioner *inter alia* submits that there is no truth in the allegations made in this FIR and no offence is made out against the petitioner. It has further been argued that the petitioner has clean antecedents and no other criminal case has been registered against him.

4. Vide order dated 13.11.2024, the parties were directed to appear before the Mediation and Conciliation Centre of this Court to explore the possibility of amicable settlement between them.

5. As per the report dated 16.12.2024, received from the Mediation and Conciliation Centre of this Court, the matter has been sent back to this Court being an unsettled case.

6. Per contra, learned State counsel and counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel while placing reliance upon the status report dated 07.11.2024 submits that allegations leveled against the petitioner are serious in nature as he in connivance with co-accused duped the complainant to the tune of Rs. 15 lacs on pretext of securing a job of a Lineman. The matter is still under investigation and strenuous efforts are being made to take the investigation to its logical conclusion.

7. Heard the rival submissions made by learned counsel for the parties.



CRM-M-53109-2024

8. In *Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)*, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr. PC is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then,*



CRM-M-53109-2024

person(s) continuously, defying orders and keep absconding is not entitled to such grant.”

9. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

10. In ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

11. There are serious allegations levelled against the petitioner as he duped the complainant to the tune of Rs.15 lacs and the parties have failed to settle the dispute through mediation. To unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

12. The petition is dismissed.

13. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

14. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

17.12.2024

reena

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No