

2024:PHHC:161607



101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53684-2024
DECIDED ON: 28.10.2024

RANJKANWAR SINGH ALIAS RAJ KAMAL ALIAS RAJ COVER

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. **Relief Sought**

The jurisdiction of this Court under Section 482 BNSS, 2023, has been invoked seeking anticipatory bail to the present petitioner in FIR No. 0051 dated 10.04.2024 under Sections 406, 420 of IPC, 1860 and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at P.S. Bullowal, District Hoshiarpur.

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

“To the S.S.P., Hoshiarpur. Sub: With regard to not effecting settlement/compromise with Raj Kamal regarding cheating of Rs.35,00,000/- and again filing complaint against him. Sir, It is requested that I am resident of Village Chak Raju Singh, Distt. Hoshiarpur. Raj Kamal (Raj Kanwar) has taken money from us on the

pretext of sending Canada. We have give report to S.S.P., Hoshiarpur on 09.09.2023 in this regard. He sent our complaint to E.O. Branch Hoshiarpur. Sir, our complaint was sent to ASI Bakshish Singh of EO Branch for disposal. Sir, both the parties were called to E.O. Branch 2-3 time and at last Raj Kamal agreed to hand over the papers of his land and agreed to give our 15-15 ½ lakh and agreed to deposit Rs.2 Lakh on the date of compromise and 13 lakh within one year. Sir, when we asked for writing the compromise then Bakshish Singh said you come tomorrow. Sir, on the next day they themselves got the compromise typed and when we read the same we refused that nothing was written in this, on which ASI Bakshish Singh in a fit of anger said that you want to sign or not and put all this to an end and whether you have given money on my asking. Sir, rather he is saying that he cannot get your money returned and he cannot ask for payment and he has got no power to get the money returned. Sir, we request that in case Bakshish Singh has no power to get money returned then whether he has got power to delete the name of the persons against whom complaint has been lodged. ASI Bakshih Singh in connivance with the accused Raj Kamal has deleted his name and has got written the compromise from the side of his wife. Sir, when we refused to sign the compromise then accused Raj Kamal tried to tear the compromise by picking the same and said that do whatever you want, I will not give money. Sir, these accused Raj Kamal and Bakshish had got attested the affidavit in the name of daughter in law Rajinder Kaur. Sir, how many other lies should we tell you about these persons. They said that flight was not booked on account of corona. In the compromise it has been written that visa is fake and ticket is fake. Sir secondly, the passport of my grandson were got returned from Raj Kamal so that we can think about something else with regard to him. Sir, my grandson being educated and had done course of tool and die and has now been forced to learn the work of mechanic of car. This person Raj Kamal has ruined the life of my grandson. We have been harassed by paying interest on the money and on the other side we are also getting separate education of the

children. We cannot think anything else that what we should do and now you are our only hope. We request to you that by cancelling the compromise of earlier complaint, action be taken against accused Raj Kamal again and action be also taken against his associate ASI Bakshish Singh who in connivance with the accused by forcibly threatening us got signatures on the compromise. Sir, it is requested that our complaint be disposed of. Sir now you are our only hope, strict action be taken against accused. We shall be highly obliged.

Yours faithfully. Hansa Singh S/o Sh. Ujagar Singh 94648-66001, 87280-60133. Today at police station: Complaint No.9117-PD dated 03.11.2023 from Hansa Singh S/o Ujagar Singh R/o Chak Raju Singh, PS Bullowal, Distt. Hoshiarpur against Raj Kamal (Raj Kanwar) S/o Parkash Ram, R/o Village Bhundia, Near Tehsil Bhogpur, PS Bhogpur, Distt. Jalandhar regarding cheating of Rs.35 lakh was given to Hon'ble SSP. Whose inquiry was done by Hon'ble Shiv Darshan Singh, PPS, DSP (Detective) Dist HPR, who in his inquiry report has written that it is proved that complainant party has given Rs.35, 12,000/- to main agent Samid Alam @ Monu R/o F-13, 2nd Floor Jangpura Onema Hall, Delhi and Sub agent Raj Kamal (Raj Kanwar) s/o Parkash Ram, R/o Village Bhundia near Tehsil Bhogpur, PS Bhogpur, Distt. Jalandhar with regard to sending his grandsons abroad. Out of this amount Rs.4 lakh was found to have been deposited by Surinder Kaur wife of Raj Kanwar, into the account of Arvinder Singh Rs.2 lakh on 11.10.2023 and Rs.2 Lakh into account of Karamvir Singh. From which the fact of connivance of main agent Samid Alam @ Monu with sub agent Raj Kamal (Raj Kanwar) is clearly found. In case the report is approved, then FIR under Section 406, 420 IPC and 13 of Punjab Travel Profession Act, 2014 is required to be registered at police station Bullowal, Distt. Hoshiarpur for further investigation against main agent Samid Alam @ Monu R/o F-13, 2nd Floor Jangpura Onema Hall, Delhi and Sub agent Raj Kamal (Raj Kanwar) s/o Parkash Ram, R/o Village Bhundia near Tehsil Bhogpur, PS Bhogpur, Distt. Jalandhar. After registration of the case investigation officer should verify about fake visa and fake

tickets whether the visa or tickets are fake or not. By making recommendation for registration of the case report is being sent to higher officials. On which S.S.P. has passed an order 1958-PC dated 09.04.2024 and written to SHO PS Bullowal to register case and investigate. On which after registering FIR against Main agent Samid Alam @ Monu R/o F-13, 2nd Floor Jangpura Onema Hall, Delhi and Sub agent Raj Kamal (Raj Kanwar) s/o Parkash Ram, R/o Village Bhundia near Tehsil Bhogpur, PS Bhogpur, Distt. Jalandhar under Section 406, 420 IPC and 13 of Punjab Travel Profession Act, 2014, copy of FIR alongwith inquiry report is being handed over to ASI Jagdeep Singh 772 Hosh. Incharge police post Churasi, PS Bullowal for further investigation. Control room is being informed through wireless. Compliance report No.33 dated 10.04.2024.'

3. **Contentions**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case being a Govt. Employee and on bare perusal of FIR, no criminal offence of cheating is made out against the petitioner. It is contended on behalf of the petitioner that he has no connection with the profession of travel agency, rather he himself has been cheated at the hands of Vipan Sharma s/o Harbans Lal Sharma, as he also wanted to send his daughter namely Manwinder Kaur abroad and handed over money to the aforesaid agents.

It is submitted that earlier also a complaint was moved by Hansa Singh on 11.09.2023 against the petitioner and during the course of inquiry, the matter stands compromised on account of the fact that the wife of the petitioner-accused agreed to return the remaining amount after receiving the same from the agents of Delhi. Now again the complainant Hansa Singh has moved a false complaint in order to extract money from the petitioner being Govt. Employee and

by ignoring earlier compromise dated 11.10.2023 and on the basis of which, the present FIR stands registered.

Notice of motion.

On behalf of the respondent/State

Mr. Jaspal Singh Guru, AAG Punjab, appearing on advance notice, accepts the same on behalf of respondent/State and submits that there are serious allegations against the petitioner, therefore, his custodial interrogation is required.

4. Analysis

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The Court has extraordinary power to protect an innocent person. However, this power has to be exercised by the Courts with due circumspection.

The allegation against the petitioner is serious in nature as he lured the complainant to part with a huge amount of money running into lakhs on the pretext of sending his grandsons to abroad, which is sufficient for this Court to infer that the petitioner has defrauded the complainant. At first, an application was filed accusing the petitioner of defrauding the complainant of Rs. 36,00,000/-, claiming that the petitioner had promised to send grandsons of complainant to Canada. A compromise was struck during the investigation of the aforementioned application, however it was not upheld. A large-scale cheating plan involving Rs.35,12,000/- was subsequently discovered as a result of filing of subsequent fresh application by the complainant. The evidence, which includes bank statements and transactions, demonstrates the petitioner's direct involvement in

commissioning of offence. Hence, *prima-facie* offence under Section 420 IPC is made out against the petitioner.

Such an allegation is certainly required adequate and intense investigation to unearth the truth. Moreover, nowadays such type of offences are on the rise in the society causing unnecessary harassment and humiliation to the innocent persons for not fault on their part. The mere contention that the petitioner is ready and willing to join the investigation does not vest a right for grant him anticipatory bail because an element of cheating is involved in it. The case made out against the petitioner is certainly a relevant ground for denial of anticipatory bail in the case in hand.

The Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** 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 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. 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.”

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“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 favourable 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 material 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 needs 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.”

In view of the seriousness of the allegations as also the need to take the investigation to its logical conclusion, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the instant petition, hence, the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

28.10.2024

Sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>