



2024:DHC:6276



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 12th August, 2024

Pronounced on: 20th August, 2024

+ **BAIL APPLN. 637/2024**

INDER BAHADUR SINGH @ INDRA BAHADUR SINGH

....Petitioner

Through: Mr. Shambhu Nath Singh and Mr.
Sagar Chhabra, Advocates.

versus

STATE AND ANR.

.....Respondent

Through: Mr. Amit Ahalwat, APP for State
with SI Sudhir Rathore, PS: EOW.

Mr. Mool Singh, Mr. Rakesh
Kumar, Advocates for
complainant.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This petition is filed seeking anticipatory bail in FIR No. 107/2022 P.S. EOW registered under Sections 406/420/120B of the Indian Penal Code 1860 ('IPC') and Sections 3, 4 & 5 of the Prize Chits and Money Circulation Schemes (Banning) Act 1978 ('the Act'). The said FIR was registered on complaint of one Rahul Kumar Pandey and 21 other

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complainants. They alleged that accused-petitioner had approached them and induced them to invest in his '*Committee*'. It was alleged that he had induced them by showing schemes which were for small savings and also showed them registration of his Chit Fund Co-operative Society. Later, in order to win their confidence, he informed them that he has been in this profession since many years and many people have benefitted; he also showed them his home and his family; introduced a number of people who told stories that they were able to marry off their daughters or build houses with help of the said scheme.

2. He also informed that his wife was one of the directors and she used to take money and give receipts, while his son was working as a treasurer and daughter was keeping accounts. It was stated in the FIR that things were working well till 18th November 2021, but one morning they came to know that he had absconded and left his house and they could not trace him. Although there were 22 complainants, it is stated that total investors were more than 200 people and crores have been cheated.

3. Pursuant to investigation, it was discovered that he was running a lucky draw scheme in the name of '*Doctor Lucky Scheme*', through which he was taking monies. He also gave passbooks to some of investors who had invested in the said scheme. In the passbooks it was mentioned that total members were 150 and total prizes were 180. The accused used to induce victims that the amount would be doubled in two years and also announced lucrative prizes on monthly basis to allure public to invest. The total amount, as per the prosecution, of 22 victims was Rs. 1,38,90,000/-. The accused along with his family fled from his home to an unknown place. Most of the payments and deposits were



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done in cash; some victims had made payments through bank transactions and some of them had passbooks of lucky draw scheme. As per the analysis of petitioner's account statement, it was found that it was inoperative since November 2021 and had been frozen. All mobile numbers had been switched off. Notice under Section 41 of the Code of Criminal Procedure 1973 ('Cr.P.C.') was pasted at the door, but it was revealed that the house was purchased by somebody else. Subsequently, it was found that accused was hiding in Lucknow. Search was conducted at this native village Pratapgarh, U.P., but he was not found there. Another residence was traced in Lucknow, but the house was found locked and therefore notice was pasted, but accused did not join investigation.

4. On 29th April 2024, petitioner's counsel submitted that petitioner was ready to settle claims of complainants and the matter was accordingly referred to mediation. In view of the same, it was directed that no coercive action be taken against petitioner till the next date of hearing. On 22nd July 2024, it was reported that mediation was unsuccessful. Petitioner's counsel claimed that an exaggerated amount was being demanded and stated that unpaid amounts were only Rs. 8.8 lakhs. Accordingly, deposit of Rs. 8.8 lakhs were directed to be secured in form of Fixed Deposit with Registry of this Court, which has reportedly been paid.

5. The APP for State has vehemently contended that these 22 victims have essentially small-time vocations, such as vegetable vending and carpentry. In this regard, statement of a vegetable vendor was also handed up, as well as pink colour passbooks, each of which show that



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small amounts in tranches of Rs.5,000/- to Rs. 10,000/- were deposited over a period of time in the scheme floated by the accused.

6. Counsel for petitioner however argued that even as per the FIR, complainants had knowledge of the scheme and had availed of it from 2018 to 2021 and could have known that it was a banned activity. The demands which are being made by the complainants were only to extract money from the petitioner.

7. Reliance was placed by counsel for petitioner on ***Lalit Chaturvedi and Others v. State of U.P.*** (2024) SCC OnLine SC 171 where the Supreme Court has stated that non-payment of money or disregard of contractual terms is a civil wrong and not a criminal offence under Section 420 and 406 of the IPC. The counsel for the petitioner further relied upon opinion of the Supreme Court that for the offence of cheating, a dishonest intention must exist at the inception of the transaction, and in criminal breach of trust, there must exist a relationship between the parties whereby one party accordingly entrusts property to another, dishonest intention comes later.

8. Learned APP, however, pointed out that this case is distinguishable, as though it lays down a general principle of law it was a case of sale of goods. In this matter, however there are specific allegations of inducement in an investment scheme which had prompted complaints to participate in it.

9. Counsel for the petitioner further states that the petitioner is 75 years of age and has never shown any certificate of registration to the complainants, as alleged.



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10. As per updated status report, the amounts, mentioned in the complaint and disclosed during investigation, invested in the lucky draw scheme and outstanding, are tabulated in the following table:

3. As per the verification, the outstanding cheated amount is mentioned in the table below:-

S.No.	Name of the Investor	Amount mentioned in complaint	Amount disclosed during investigation which was invested in committee	Amount invested in Lucky Draw Scheme	Total outstanding Amount
1.	Rahul Kumar Pandey	2,50,000/-	90,000/-	60,000/-	1,50,000/-
2.	Sh. Ajay Singh	9,00,000/-	31,10,000/-	90,000/- (names of Prabha, Daman and Karishma	32,00,000/-
3.	Prabha Singh W/o Ajay Singh	11,00,000/-	(all the committee were managed by		
4.	Daman Singh S/o Ajay Singh	6,00,000/-			

5.	Karishma Singh D/o Ajay Singh	7,00,000/-	Prabha Singh and she invested in several committees)	are mentioned in one card.)	
6.	Sh. Ratan Tiwari	4,00,000/-	3,00,000/-	Nil	3,00,000/-
7.	Sh. Sanjeev Kumar	5,10,000/-	2,25,000/-	60,000/- Card not available Total 2	2,85,000/-
8.	Sh. Tofazzol Haque	4,00,000/-	3,75,000/-	Nil	3,75,000/-
9.	Sh. Muradul Haque	25,00,000/-	25,00,000/-	Nil	25,00,000/-
10.	Sh. Alauddin Saiphi	8,00,000/-	4,00,000/-		4,00,000/-
11.	Sh. Shiv Kumar	4,00,000/-	2,67,000/-	Nil	2,67,000/-
12.	Neelam Pathak	1,50,000/-	1,50,000/-	30,000/-	1,80,000/-
13.	Sh. Dhan Lal Yadav	1,50,000/-	1,50,175/-	Nil	1,50,175/-
14.	Sh. Surender Kumar	13,32,155/-	11,92,156/-	2,02,500/-	13,94,656/-
15.	Urmila Devi	2,40,000/-	2,40,000/-	Nil (paid)	2,40,000/-
16.	Sh. Karvenendra Pratap Singh	1,50,000/-	42,000/-	Nil	42,000/-
17.	Smt. Nisha Devi	4,00,000/-	2,00,000/-	Nil	2,00,000/-
18.	Smt. Soni Sharma,	3,00,000/-	2,75,000/-	Nil	2,75,000/-
19.	Hari Shankar Yadav	3,00,000/-	1,65,000/-	Nil	1,65,000/-
20.	Sh. Narsingh Chaudhary	15,00,000/-	1,41,570/-		1,41,570/-
21.	Sh. Dinesh Yadav	2,40,000/-	2,40,000/-	60,000/-	3,00,000/-
22.	Madan Kumar	7,18,230/-	6,34,230/-	84,000/-	7,18,000/-
Total Outstanding :-					Rs. 1,12,83,401/-

11. As per the tabulation, the total outstanding amount of all 22 victims is Rs.1,12,83,401/-. Further, it transpired during the investigation that petitioner did not have any license or registration for such Committee and lucky draw scheme. He was asked to produce the record

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or register of the *Committee Members* in which all the entries were maintained, but he did not reply, and during the investigation said that the register had been torn during a quarrel with Members in November 2021.

12. Keeping in mind these circumstances, where public money is involved, that too of poor people, who have deposited their hard-earned savings in small dribblets, to ensure that they have a secured income at a later stage when they require it; petitioner having not provided any sufficient explanation, nor document, nor any record of having received the deposits but has chosen to abscond and flee without having ensured that the *Committee Members* have been paid back the amounts they had deposited, the investigating agencies having to track him down in Pratapgarh and then in Lucknow, the petitioner is not deserving relief of anticipatory bail.

13. The interim protection had been given by the Court on the basis of the petitioner's undertaking that they would settle the amounts of the complaints. However, later he resiled stating that the claims of the complainants were highly exaggerated. Considering the conduct of the petitioner, as noted above, the court is not inclined to allow his petition.

14. The Supreme Court has time and again elucidated on the issue of grant of anticipatory bail *vis-à-vis* necessity of proper interrogation by investigating authorities; Following decisions of the Supreme Court are instructive in this regard:

1. *State v. Anil Sharma* (1997) 7 SCC 187

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than



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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 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.

8. The above observations are more germane while considering an application for post-arrest bail. The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest. At any rate the learned Single Judge ought not to have side-stepped the apprehension expressed by the CBI (that the respondent would influence the witnesses) as one which can be made against all accused persons in all cases. The apprehension was quite reasonable when considering the high position which the respondent held and in the nature of accusation relating to a period during which he held such office.”

(emphasis added)

2. *Ashok Kumar v. State (UT of Chandigarh)* 2024 SCC OnLine SC 274

“12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial

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interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature...”

3. **Sumitha Pradeep v. Arun Kumar C.K.** 2022 SCC OnLine SC 1529

“16. 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 anticipatory bail. However, even if custodial interrogation is not required or



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necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(emphasis added)

15. In light of the above discussion and assessment, this petition is dismissed along with the pending applications.

16. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

AUGUST 20, 2024/SM/kp