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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(207)

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Date of decision: 04.09.2025

Suresh Kumar

..... Petitioner

V/s

State of Haryana

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Dheeraj Jani, Advocate, for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana.

Mr. Rahul Singh, Advocate, for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 of BNSS, 2023 is for the grant of anticipatory bail to the petitioner in case FIR No.699 dated 30.08.2024 under Sections 120-B/406/420 IPC and Section 24 of the Emigration Act (Sections 467/468/471 IPC added later on) registered at Police Station Sadar Karnal, District Karnal.

2. The present FIR came to be registered at the instance of Rajender and reads as under:-

To, the Superintendent of Police, Karnal S.P. Subject:- Complaint for cheating Rs.30 Lac on the name of sending America and threatened to kill the family. Respected Sir, in regard to the above cited subject it is submitted that I, Rajender Kumar son of Sh. Ram Niwas permanent resident of village Picholia District Karnal. 0.12.2023 Surender Kumar son of Sh. Rati Ram resident of Gaushala Road, Jundla District Karnal got me met with Suresh Kumar son of Syam Singh resident of

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Gayant Dera and said send your younger son Anshul to abroad America, because he Sonu Gujar and Suresh are jointly working. The deal for sending between us has been settled for Rs.40 Lac, Agent Suresh said that I will genuinely send your son to America, who will reach within 10 to 15 days. For Which Rs.15 Lac and 2500 American Dollars in cash paid to Suresh in the presence of Surender, Devender Jati Road. On 24.12.2023 Anshul through flight has gone from Delhi to Dubai. On 26.12.2023 on the asking of Surender and Suresh out of Account No.50100177787927 to Account No. 50100420759331 transferred Rs.15 Lac, Rs.5 Lac Lac to Arti Devi H.D.F.C. Bank and Rs.8 lacs transferred in Account No. 50100484283191 of Devender Kumar of H.D.F.C. Bank. I along with Surender and Devender as per the asking of Suresh went to his house at Piyot and there handed over Rs.15 Lac to the wife of Suresh and his elder Brother Jaswant, for its security Jaswant has handed over me a Cheque for Rs.30 Lac of AXIS Bank in the presence of Surender and Devender, he said that if your son not reached at America then you return our cheque and we will refund your entire money. Thereafter, on 19.03.2024 my son from Dubai via Nepal return back to home. In Dubai they gave beating to my son and tried to kill him and withdrawn money through HDFC VISA Card in Dubai, copy of the same is attached herewith. That smuggling and Under Section 420/468/471 IPC, 12 PP Act PSI Airport Delhi are already registered against Suresh, we came to know on 02.01.2024. Now when I demanded money from the accused then he is giving me threat to kill or through some other person got made threats through phone. In this regard we have already submitted application in Police Station Sadar Karnal and also filed complaint before worthy S.P. Sahib. But till date no action has been taken on the same. The accused are criminal type persons, I and my family is

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apprehending danger for our lives and liberty from their hands. Application is submitted to you for appropriate legal action. On 30.05.2024 I had already submitted application to S.P. Sahib, till date no action taken on the same. I want to got take action through CIA Staff and not from Police Station Sadar. Thanks Rajender.

3. During investigation, the complainant produced an electronic VISA of Morocco which is in the name of Harpreet Singh and which has the photo of the complainant's son Ansul on it. It was taken into police possession. Thereafter, Sections 467,468,471 of IPC were added in this case.

4. As per the statement of the complaint he had transferred Rs.8,00,000/- in the account of Devinder and Rs.5,00,000/- in the account of Aarti Devi on 26.12.2023. The petitioner-accused Suresh Kumar took Rs.15,00,000/- in cash and 2500 American dollar from the complainant and co-accused Jaswant Singh and the wife of the petitioner-accused, Reena took an amount Rs. 15,00,000/- in cash from the complainant for sending complainant son Ansul to America through proper channel and co-accused Jaswant Singh issued a security cheque of Rs.30,00,000/- from his Axis Bank account in favour of the complainant in order to secure the amount of the complainant.

5. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. On joining investigation, no incriminating evidence has been found against him. Even

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as per the FIR, the money was transferred into the accounts of his co-accused and not the petitioner. There are discrepancies between the earlier complaints and the present FIR filed. He, therefore, contends that the petitioner is entitled to the concession of anticipatory bail.

6. The learned counsel for the State and the counsel for the complainant, on the other hand, contend that the petitioner, in fact, is the main accused. His brother-Jaswant Singh was acting on his behalf. The other accused is his wife, namely, Reena Devi. It is the petitioner who had provided the fake Moroccan Visa. The money was received by his family members at his behest. His co-accused Jaswant Singh has already been exonerated by the investigating agency. As the offence stands established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required and therefore, he is not entitled to the concession of anticipatory bail.

7. I have heard the learned counsel for the parties.

8. The Hon'ble Supreme Court in the case of '**Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022(4) RCR (Criminal) 977**', has 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

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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***

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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.”

9. A perusal of the record would reveal that the petitioner personally and through his close family members received a huge amount of money from the complainant to send the son of the complainant abroad. However, the son of the complainant returned back to India from Dubai via Nepal. He was beaten up and threatened with being done to death on being asked to return the money. A fake Moroccan Visa was handed over by the petitioner to the complainant. The co-accused/Jaswant Singh has been exonerated and therefore, the petitioner cannot claim that he is entitled to the concession of anticipatory bail as his co-accused has been granted bail. He is an accused in another case of a similar nature arising out of FIR No. 606/2023 under Sections 420, 468, 471 IPC and Section 12 of the Passport Act, Police Station IGI Airport Delhi. There are phone recordings available with the complainant where the petitioner can be heard issuing threats to the complainant. Therefore, his voice samples are also to be taken. As the offence stands *prima facie* established and the investigation is to be taken to its logical conclusion, the custodial interrogation of the petitioner is certainly required.

10. In view of the above discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

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11. However, it is made clear that the observations made in this order are only for the purpose of deciding this bail application and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

12. The pending application(s), if any, shall stand disposed of accordingly.

September 04, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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