114 IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

1 CRM-M-20066-2025
DECIDED ON: 09.04.2025

HARDEEP SINGH
... PETITIONER

VERSUS

STATE OF PUNJAB
... **RESPONDENT**

2 CRM-M-20080-2025

INDERJIT KAUR
…..PETITIONER

VERSUS

STATE OF PUNJAB
…..RESPONDENT

AND

3. CRM-M-20095-2025

JASBIR KAUR
…..PETITIONER

VERSUS

STATE OF PUNJAB
…..RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

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Present: Mr. GPS Ghuman, Advocate
for the petitioner.

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SANDEEP MOUDGIL, J

By this common order, this Court intends to dispose off all the petitions together as all are arising out of the same FIR.

To avoid any repitition the facts are being taken from CRM-M-20066-2025, titled as ***"Hardeep Singh vs. State of Punjab."***

1. Relief Sought:-

The jurisdiction of this Court under Section 482 BNSS,2023 has been invoked seeking pre-arrest bail to the petitioners in case FIR No. 22, dated 01.02.2025, under Sections 318(4), 316(2), 61 (2) of BNS, registered at Police Station City Tarn Taran, District Tarn Taran.

2. Facts

Prosecution story as per the FIR is narrated as under :-

"It is submitted that I Harshdeep Singh son of S. Pritam Singh, am residents of Noordeep Bazar, Gali Cheema Dehri Wali, Tarn Taran District Tarn Taran and submits that the above Malkit Singh, who is resident at abroad in America, do the work of Travel Agent and accused No.1, Jasbir Kaur is mother of Malkit Singh, who while residing in India, who in connivance with his son and other accused do the work of Travel Agent. Dupe the innocent people in collusion. The above accused in collusion with each other by alluring me to send me abroad to America committed fraud of Rs. 34,50,00/- with me. I made all the payment in some online accounts and some in cash i.e. sum of Rs. 23, 35,000/- transferred in various accounts on the asking of above Jabir Kaur and Malkit Singh from 10.03.2023 to 21.08.2023 and during these dates sum of Rs. 11, 15, 000/- received by above Malkit Singh from us in cash by sitting in Judge Milk Diary Tarn Taran in the presence of witnesses Ashwani Kumar son of Jagdish Chander resident of Village Khehra and Rajwinder Kaur wife of Pradeep Singh Resident 0Hh Tarn Taran. That the above persons promised me to get my Visa of sending America but later on

started saying that after getting your Visa of entry of Arab Country, get of America. They after getting me Visa of Dubai kept me at Dubai for about 2 months, then get visa of Ethiopia and in this manner get visa of two more countries, then they get forged visa of Netherlands, upon which I was returned from Delhi Airport. Then discussion was done respectable with them by taking along persons, then kept on dilly dallying us, then above Malkit Singh went to abroad America from India. Then we entered into written agreement/compromise on 20.06.2024 with above Jasbir Kaur, Inderjit Kaur wife of Malkit Singh resident of Laliani (Haryana), Ravi Panchal resident of Delhi, Hardeep Singh son of Mastan Singh resident of Santpura Pehowa (Haryana), wherein agreement was done to return our above money and by signing they gave us cheques of Rs. 32 lacs. After depositing the cheque in the Bank, the cheques were returned due to no funds in Bank and till date have not returned the money, refused to return out money and also issuing threat that you do whatever you want to do we will not return this money to you and also putting political pressure upon us and threats are being issued. Fraud has been committed with us. Due to which I and my family members are mentally upset. Out of this amount some amount has been taken on interest and some given after selling residential house. At this time I am very upset. Therefore kindly take appropriate legal action against above Travel agents under appropriate sections. Justice be done to me and my amount may be refunded to me. Thankful to you. Dated 20.12.2024."

3. ***Submissions***

On behalf of the petitioner:

Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in the present case. The petitioners have no direct involvement in the complainant's dealings with the travel agent. The complainant is blaming the petitioners for his inability to reach USA and Canada. Moreover, the husband of petitioner-Inderjit Kaur (CRM-M-20080-2025) had only provided a contact number of a travel agent, Ravi Panchal, who arranged the visa, however, the petitioners have no knowledge of the complainant's further dealings with Ravi. The petitioners are ready and willing to join the investigation and will co-operate with the investigating agency.

Notice of motion.

On behalf of respondent-State

At the asking of Court, Mr. Jastej Singh, DAG, Punjab appearing on advance notice, accepts the same on behalf of respondent-State. He submits that the investigation of the case is still pending and custodial investigation/interrogation of the petitioner would be required to culminate the investigation into a logical end. Moreover, the allegation against the petitioner is grave in nature as the petitioners had duped the complainant to the tune of Rs.34,50,000/- approximately on the pretext of sending him America. Out of said total amount, Rs.23,35,000/- were deposited in various accounts and Rs.11,15,000/- was paid in cash to Malkit Singh (husband of petitioner-Inderjit Kaur).

It is further contended that all the accused persons, including the petitioner, acted in concert and were involved in a well orchestrated plan to cheat the complainant. While drawing the attention of this Court to the FIR annexed as Annexure P-1, he has submitted that an amount of Rs.23,35,000/- was transferred into the different bank accounts on the asking of Jasbir Kaur-petitioner (in CRM-M-20095-2025) and Malkeet Singh by the complainant, in addition to Rs.11,15,000/- which was paid to Malkeet Singh in cash. Despite receiving the money, neither was the complainant sent abroad, nor was the amount refunded. On the contrary, the accused persons began avoiding the complainant and even extended threats to deter him from pursuing the matter.

Heard learned counsel for the respective parties.

4. ***Analysis and conclusion:***

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.

Prima facie, the allegations against the petitioners are serious and specific. They are not a mere bystander or an incidental link in the transaction, but a direct recipient of a large sum of money, which was allegedly collected under false pretenses. The submission made by the counsel for the petitioners that Malkeet Singh, who happens to be the husband of petitioner-Inderjeet Kaur and brother-in-law of petitioner-Hardeep Singh, has only provided a contact number of the agent, Ravi Panchal, does not absolve them of culpability, particularly when prima facie the money-trail begins and ends with them, and the end objective of sending the complainant abroad, remained unfulfilled. Crimes involving immigration fraud have reached alarming proportions in recent years. Unsuspecting individuals are often lured with promises of overseas employment or education, and are made to part with substantial life savings. These frauds are frequently orchestrated by agents and touts who operate outside the regulatory net. In many instances, victims are either left stranded, defrauded, or worse, find themselves in legal peril in foreign jurisdictions.

This Court is conscious of the growing prevalence of such rackets and the urgent need to adopt a stringent approach to deter such conduct. *Prima facie*, the petitioners, having actively participated in the financial transaction and being the initial custodian of the defrauded amount, cannot be permitted to evade investigation. Their custodial interrogation is necessary to ascertain the full extent of the conspiracy and to trace the funds.

The mere contention that the petitioners are ready and willing to join the investigation do not vest a right for grant them 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 482 BNSS, 2023, 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 ensconded 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 light of the gravity of the offences, the *modus operand*i adopted, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioners. The instant petitions stand dismissed accordingly.

However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case

(SANDEEP MOUDGIL)
JUDGE

09.04.2025
sham

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