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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Decided on : 18.03.2025

Sandeep Kumar alias Rahul

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Naveen Bawa, Advocate
for the petitioner

Mr. Davinder Bir Singh, DAG Punjab

KIRTI SINGH, J. (Oral)

1. This is the first petition filed under Section 482 of BNSS for grant of anticipatory bail to the petitioner in case FIR No.32 dated 29.03.2024 under Sections 465, 467, 468, 471, 120-B IPC (Sections 2 and 3 of Immoral Traffic Act, 1956 added later on) registered at Police Station Sarabha Nagar, District Ludhiana.
2. The contents of the above-mentioned FIR are reproduced herein below:-

“SHO Police Station Sarabha Nagar, "Jai Hind" Today I ASI alongwith ASI Pritpal Singh 1157, ASI Sukhdeep Singh 2084, Constable Lakhveer Kumar 1308, Head Constable Sikandar Singh 2024 alongwith private laptop and printer in government vehicle bolero no. PB 10 GK-0572 whose driver is Head Constable Kulwinder Singh 1472 and were present in opposite to Chowk Verka Plant, Ferozepur Road, Ludhiana, then, Secret informer informed me that Himansu alias Kabir son of Ram Chandra resident of Decent Enclave Barrewala Road Ludhiana and Sandeep Kumar alias Rahul resident of Mansa at present resident of Shimlapuri Ludhiana who



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call girls from International Uzbekistan to India and they prepared their local fake Voter Card/Aadhaar Card of Delhi. For accommodation of these foreign girls in hotels, hotel owner Anmol Kakkar son of Santokh Kakkar resident of Jujhar Nagar Ludhiana and Akash Kapoor son of Ashok Kapoor resident of Haibowal Ludhiana owner of Hotel A-7 Pulhowal Chowk Ludhiana, Hotel Sky White House, Bhai Randhir Singh Nagar Ludhiana, Vansh resident of Haibowal Ludhiana and Harsh resident Tibba Road Ludhiana, Navjinder Singh son of Jasveer Singh resident of Abdullahpur Basti Ludhiana owner and manager of Wellawing Residency Basant City Backside Keys Hotel Ludhiana, accommodates foreign girls in their hotels by colluding with the said Himansu and Sandeep Kumar. They also rent out the rooms in their hotels with fake proofs in order to do the business of prostitution according to requirement. The above said send the foreign girls to different-different hotels in the city for prostitution business. Apart from these hotels also, the foreign girls, book the rooms by giving fake documents prepared by Himansu and Sandeep Kumar. They kept fake documents alongwith them prepared by Himansu and Sandeep Kumar and also give to the girls. That all these people conspire with each other to make fake documents and use them and engage in prostitution. This information is true and reliable. In this regard, after getting information about the appearance of accused and the vehicle of the accused from the special secret informer and made him free by giving relevant instructions. By doing so, all these persons have committed the offence punishable under Section 465, 467, 468, 471, 120-B IPC. So, information against Himansu alias Kabir, Sandeep Kumar alias Rahul Anmol Kakkar, Akash Kapoor, Vansh, Harsh and Navjinder Singh is sent to the police station through Head Constable Davinder Singh No: 1499. After registering the case, the number may be informed and the control room also be informed. I Sub Inspector alongwith the officials is going for the search of the above said persons. Area: Opposite to Chowk Verka Milk Plant, Ferozepur Road Ludhiana, Time :-03.30 AM, SD/- ASI Nirbhay Singh No. 888/Ludhiana, Crime Branch-1



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District Ludhiana. Dated 29-03-2024.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case. He submits that except the alleged secret information against the petitioner, there is no kind of incriminating evidence against the petitioner to relate him with the alleged offence. There are no details with regard to voter card or aadhaar card that was prepared by the petitioner and there are no details as on which date, month and year, the foreign girls were called by the petitioner from Uzbekistan. He further contends that there is no complaint of any foreign girl against the petitioner with regard to sending her to any hotel for prostitution.

4. *Per contra*, learned State counsel, while referring to the reply dated 04.11.2024, submits that there are serious and specific allegations levelled against the petitioner. He contends that on receiving secret information, a raid was conducted at Hotel Welawing, Basant City, Ludhiana during which, in three different rooms, a male and a female each were apprehended in a compromising position. Further, from each of the rooms, fake identity documents of the girls, including PAN cards, Aadhar cards and even fake passports were recovered. Accordingly offences under Sections 3, 4 of Immoral Traffic Act were added and the aforesaid persons, who were found compromising positions, were also nominated as accused in this case on 29.03.2024. Manager of the said hotel namely Saif Ali Khan was also nominated as accused. during the investigation, the police verified the addresses mentioned in the fake aadhar cards of foreigner girls and it was revealed that those girls never stayed at those addresses. Infact the present petitioner used to contact the foreigner girls, prepare their identity proofs on fake addresses and send them to hotels for prostitution in connivance with the co-



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accused as mentioned above. He submits that as per police record, no other FIR has been registered against the petitioner. Further investigation is still pending and in order to the know the modus operandi of the crime and for proper investigation of the case, custodial interrogation of the petitioner is very much required by the police. There are total 12 accused in this case out of which eight accused have been arrested but four accused including the petitioner are yet to be arrested. Thus, in view of serious nature of allegations, the petitioner is not entitled for the concession of anticipatory bail, which is extra-ordinary relief and the same is granted only in exceptional cases.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.

6. 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.P.C. 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*



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

7. 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.

8. In ***Pankaj Singh vs. State of Punjab, (CRM-M-17776-2021)*** decided on 28.04.2021, appeal against which was dismissed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.)3687/2021, a coordinate bench of this Court dismissed the petition for grant of anticipatory bail of a person accused under Immoral Traffic (Prevention) Act, who managed to flee, when his hotel was raided on secret information.

9. The general rule, put tersely may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused



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fleeing, intimidating witnesses or tampering with the evidence, *inter alia*, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

10. There are serious allegations levelled against the petitioner under Immoral Traffic Prevention Act. Such cases involve wide spread trafficking networks and there is a risk that the accused may tamper with evidence or threaten the victims and witnesses, if released. Prostitution rackets often involve human trafficking, coercion and exploitation, which has far reaching societal implications and the Courts must take a stringent stand in such matters. Considering the grave nature of the allegations, this Court is not inclined to grant discretionary relief of anticipatory bail.

11. Accordingly, the petition is dismissed.

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

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

(KIRTI SINGH)
JUDGE

March 18, 2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No