

CRM-M-21645-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21645-2022
Reserved on: 16.01.2023
Pronounced on: 02.02.2023

Ajit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
72	22.05.2021	Verka, District Amritsar	420, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above, on the allegations of cheating, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel argues that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. State's counsel opposes the bail and seek custodial interrogation to rule out the involvement of officials.

REASONING:

5. The allegations against the petitioner are that he and his accomplice allured the complainant and told him they were retired from Indian Army and could get his son a job in Indian Army for a sum of Rs. Five lacs. After that, they visited his home, and after consulting his family members, the complainant decided to go ahead and hand over Rs. Three lacs to them, with a balance payable after providing the job. After that, he complained. The petitioner and his accomplice thugs successfully conned the

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complainant and his family. The complainant is no less responsible. He bypassed the normal recruitment process and, through cheating and illegal means, wanted a job for his son for money. It appears to be a kettle calling the pot black, but the ground reality is that there is a massive difference in the salaries of equivalent jobs at the lower rung, in the government sector and private sector, and also with the highest level of job security, irrespective of performance in the government sector and productivity linked job that too at the will of the employer in the private sector. Consequently, getting government jobs is not just a dream but also a sign of being a winner and success, making the end more important than the means. Thugs have started exploiting this weakness and getting easy prey. In the entirety of the social backdrop and the gravity of the offense, the petitioner does not make out a case for anticipatory bail. Custodial interrogation is required to unearth the modus-operendi.

6. In *Jai Prakash Singh v. State of Bihar and another* (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See *D.K. Ganesh Babu v. P.T. Manokaran* (2007) 4 SCC 434, *State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain* (2008) 1 SCC 213 and *Union of India v. Padam Narain Aggarwal* (2008) 13 SCC 305].

7. In *State rep. by CBI v. Anil Sharma*, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. 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 suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.

8. In the light of these judicial precedents coupled with the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

