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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43070-2024 (O&M)

Date of decision: 06.02.2025

Mandeep Kaur and another**.....Petitioners****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Ivneet Singh Pabla, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Senior DAG, Punjab.

Mr. Ramnish Puri, Legal Aid Counsel
for the complainant (Through VC).

RAJESH BHARDWAJ, J.**CRM-4965-2025**

Application is allowed as prayed for.

Annexures P-6 and P-7 are taken on record.

CRM-M-43070-2024

1. Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.0087 dated 06.08.2024, under Sections 406, 420, 120-B of IPC, registered at Police Station Moonak, Sangrur.

2. Succinctly, facts of the case are that the FIR in the present case has been lodged on the statement of respondent No.2 Murti Devi wife of Late Hemraj. It was alleged that she has five daughters who all are married. Her husband was working in Markfed Department however, he died 7 years ago. The amount of Rs.34,82,000/- was deposited into her account by the Markfed Department. Her daughter Mandeep Kaur (petitioner No.1) and son-in-law Pawan Kumar (petitioner No.2) told her that only Rs.11.00 lacs have come



in her account. They fraudulently had withdrawn Rs.11.00 lacs by taking her thumb impression. It is alleged that in all they fraudulently transferred Rs.22,50,000/- to their account by taking her thumb impression on the cheque. She along with her grandson went to enquire from the Markfed Department where it was told that Rs.34,82,000/- was deposited in her account. She alleged that her whole money was fraudulently withdrawn by her daughter Mandeep Kaur and son-in-law Pawan Kumar. Request was made to take legal action against both the accused namely, Mandeep Kaur and Pawan Kumar. On registration of the FIR, investigation commenced. Apprehending arrest, both the accused approached the Court of learned Additional Sessions Judge, Sangrur praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide his order dated 22.08.2024. Hence, being aggrieved, petitioners are before this Court by way of filing the present petition.

3. Learned counsel for the petitioners has vehemently submitted that the petitioners have been falsely implicated in this case. He submits that the dispute is between the mother and daughter. He has submitted that the inquiry in the present case was conducted by the DSP, Sub-Division Moonak and after inquiry, the application filed by Inquiry Officer on 22.01.2024. He has submitted that the complainant herself had given the amount of retiral benefits to her daughter and the compromise has also been effected between them. However, thereafter, the complainant-mother had clandestinely filed this FIR only to harass the petitioners. He submits that the complainant had given an affidavit dated 08.01.2024 wherein she had specifically deposed that after the death of her husband, she is being



looked after by her daughter Mandeep Kaur i.e. petitioner No.1. Her husband during his lifetime had disowned her one daughter Manjit Kaur from his all properties. He thus, submits that the allegations made in the FIR are totally afterthought and thus, no *prima facie* case is made out against the petitioners and hence, they deserve to be granted anticipatory bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioners. He has submitted that by taking undue advantage of the plight of the complainant both the petitioners had siphoned off her whole amount lying in her account. It is submitted that the investigation is also at the initial stage. He thus, submits that no case is made out to grant anticipatory bail to the petitioners.

5. Learned counsel for the complainant has also opposed the submissions made by counsel for the petitioners. He has submitted that the complainant is a helpless woman who has been cheated by the petitioners by siphoning off her money from her account.

6. This Court has heard counsel for the parties and perused the record with their able assistance. This Court on preliminary hearing keeping in view the facts and circumstances of the case granted interim bail to the petitioners vide order dated 03.09.2024. Learned counsel for the petitioners and the complainant were heard and as both were *ad idem*, the matter was referred to the Mediation and Conciliation Centre of this Court vide order dated 13.12.2024. However, as per the report dated 20.01.2025 submitted by the Mediator, the mediation remained unsuccessful. This Court summoned both the parties in person vide order dated 22.01.2025. On 30.01.2025, both the parties were present in person



along with their counsel. This Court interacted with the parties present in person and heard their counsel. The complainant who is a senior citizen had apprised the Court that she was cheated by the petitioners as she was made to put her thumb impression on the cheques on one pretext or the other and finally she found that her whole amount was withdrawn by them. She submitted before the Court that after the death of her husband, she had no source of livelihood and as she has only two daughters, she is not even being looked after. However, on interaction with the petitioners, they opposed the same and submitted that only an amount of about Rs.18.00 lacs was voluntarily given to them by the complainant and not an amount of Rs.34,82,000/- as alleged. Keeping in view the arguments and counter arguments, this Court asked the petitioners to deposit Rs.10.00 lacs in the account of the complainant to show their *bona fide* and granted two weeks' time. However, when the case came up for final hearing on 06.02.2025, learned counsel for the petitioners informed that the petitioners are not ready to deposit any amount in the account of the complainant rather it was reiterated that the allegations against them are false and frivolous. It was contended that as per the direction of this Court, they have already joined investigation and thus, there being no prima facie case having been made out against the petitioners, the interim order dated 03.09.2024 be made absolute.

7. The respondent-State has filed the status report which would show that details of the transactions made from the account of the complainant by the petitioners which read as follows:-

Sr. No.	Date of Transfer	Amount
1.	21.02.2023	4,00,000/-



2.	01.03.2023	1,47,000/-
3.	03.05.2023	5,00,000/-
4.	05.05.2023	5,00,000/-
5.	03.07.2023	1,95,000/-
6.	28.07.2023	85,000/-
	Total amount	18,27,000/-

8. The details of cash amount withdrawal by the petitioners from the account of complainant-Murti Devi which read as under:-

Sr. No.	Date	Withdrawal amount
1.	03.02.2023	30,000/-
2.	21.02.2023	6,00,000/-
3.	03.05.2023	5,00,000/-
4.	05.05.2023	5,00,000/-
5.	06.05.2023	2,00,000/-
6.	12.06.2023	35,000/-
7.	28.07.2023	2,500/-
	Total amount	18,67,500/-

9. The same would show that the transaction of an amount of Rs.36,94,500/- was made from the account of the complainant. The Court cannot ignore the fact that the complainant is a senior citizen and is a widow. Despite various opportunities having been granted by this Court by referring the matter to the Mediation Centre and depositing amount in her account, no inclination was shown by the petitioners who are none other than the daughter and son-in-law of the complainant.

10. For the consideration of anticipatory bail, the statutory parameters are given under Section 482(2) of Bharatiya Nagarik Suraksha



Sanhita, 2023 which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

Where any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

When the High Court or the Court of Sessions makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of Section 480, as if the bail were granted under that Section.

11. As per the law settled by the Hon'ble Supreme Court, in **Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632**, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-



31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society



as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

12. The Hon'ble Supreme Court in *State Vs. Anil Sharma, (1997) 7SCC 187*, held as under:-

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 ensconced with a favorable 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.

13. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court is of the opinion that simply because



the petitioners have joined the investigation does not entitle them for making the interim bail granted absolute. The custodial interrogation of the petitioners is very much essential to bring the truth on record and as such, petitioners do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

06.02.2025

m. sharma

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