

CRM-M-55829-2023



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

CRM-M-55829-2023

Reserved on: 29.11.2023

Pronounced on: 08.12.2023

Munesh Devi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Shokeen Singh Verma, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. A.G. Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
213	06.06.2023	Furrukhnagar, District Gurugram	384, 388, 389, 120-B IPC (7, 13(1) (d) of Prevention of Corruption Act, 1988 added later on)

1. The petitioner, who is a female Assistant Sub-Inspector of Police in Haryana Police, apprehending the arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking Anticipatory bail by filing the present petition on 03.11.2023.

2. Vide order dated 06.11.2023, this Court had granted interim anticipatory bail to the petitioner, which is continuing to date.

3. The petitioner's general contention is that the custodial investigation is neither required nor would serve any purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The state's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.

5. The facts are being taken from a reply dated 18.11.2023 filed by the Assistant Commissioner of Police, Pataudi, Gurugram, and it would be relevant to extract the FIR from paragraph 2 of the said reply, which reads as follows:

"2. That before proceeding further with the present status report, it is imperative to mention some facts of the present case, which are that the case FIR No. 213 dated 06.06.2023 u/s 384, 388, 389, 120-B IPC was registered at P.S. Farrukhnagar, Gurugram on the complaint submitted by the complainant Suraj Jha. The contents of

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the present FIR are reproduced as under:-

"To, SHO F Nagar, Gurugram, Haryana Respected Sir, CASE AGAINST HONEY TRAP. I am giving this written complaint to you and I want you to take some action against it soon and save other people's lives from being destroyed. This story which I am telling you is my experience which has happened with me and not only with me there are many other people with whom this is happening and there are so many of them who are not able to give money to anyone and they are taking the decision of self-immolation due to fear and humiliation in the society, because people have no other option left, don't know how many lives are going to be ruined. I am using a dating application called Bumble and while using it I matched with a girl named Binita Kumari on 14th May She told me she lives in Faruknagar with her sister and Brother in Law. Then She Invite me on 14th May 2023 there Near Radhey Sweets Faruknagar Gurugram and then She told me to let's have booze together in a hotel Room Hotel Name was Shiva Farm Faruknagar Booking through OYO And then we went to the Hotel and Check in to our ID Proof at 12:29 PM. After that We go inside the room and had a good conversation with Beer after like 20 Minutes She started coming close to me and started touching on different parts of my body hence I also started moving forward in that Situation Then she suddenly pushed me, and said, you tried to rape me. Then the girl told me to give me 50000 now, otherwise, I will accuse you of rape. I suddenly got scared and I said, why are you saying this to me? She said I will accuse you of rape, if you do not want to get trapped in this, then give the money now. Thought that this girl is wrong, it is not right to live with her, so I told her that I will leave her outside. You only called me, and then I came here But now why is she doing all this with me, the girl did not give any answer, but then we both left the room and left the girl where I had picked her up, then I come to my house. I get a call around 5:00 in the evening. The call was from Farukhnagar police station. From there the inspector called me. She said that Binita Kumari has filed a complaint against you that you tried to rape her. I told everything to the women Asstt. Sub-inspector Munesh Devi Then she tells me that the next day you come and meet me. She meets me at Rajiv Chowk by with her car. Her phone number is [REDACTED] She said that you are caught in a big trap. So get over it anyhow. I told the whole thing to madam and said that I am being framed, you should investigate and get it done properly. After an hour of meeting Lady Asstt. Sub-Inspector, a lawyer namely Rajesh Kumar [REDACTED] from Dwarka Court called and said that I will arrange everything, please meet me as soon as possible and the very next day I am going to meet him. Then he says you give me Rs.5,00000/-, I will manage and get the case finished. I said who gave you my number and from where did you get it. He said that girl has given me the number you met and she is demanding Rs.5,00000/-. I was very nervous, I could not understand what to do because I did not know what and how to do in such a problem. I went to the court and did a full voice recording of what was happening through my watch. I told him that I have many proofs against him. I will file a complaint against you. However, inside I was also getting nervous. Then on 18 May 2023, I get a call from that madam Munesh from Farukh Nagar police station that you should come here and meet us as soon as

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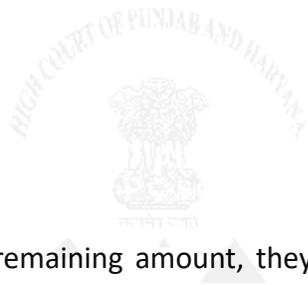
possible. Then she started telling me that you are trapped, so I will settle your case outside otherwise it will take you 7 years to prove that you are innocent. Only then that girl timing around 2-45 PM to 3 PM came there with a boy. Then that boy goes straight inside the police station and doesn't know what he talks about, after some time he comes with the I/O Munesh of the police station as per my friends because they are inside the police station who went with me. Their name are Anil and Abhishek. Then they talk to I/O Munesh Devi what we will do. We came here for this case. After some time then that boy who case with that girl Binita Kumari, he was telling lets manage this case give me 2 Laks rupees otherwise I will file a complaint and you will not be able to go back home because I had no one to tell or explain my point of view and all the people were involved in this conspiracy. They threatened me a lot, then after the whole conversation finally demanded Rs. 1,00,000/- from me! I had no choice; He would have arrested me on the spot. I took pictures of the boy who was there. Who came with the girl Binita Kumari. He took Rs. 70000/- in cash from my friend Anil & Abhishek and took Rs. 20,000/- from me through Google Pay. Some more people also trapped with this same type of case with the same girl name are Vinit Yadav. The details of the number on which the money was transferred, the details of the cars are being given to you along with the application. I have many evidence of in this case during this investigation and I can provide you whenever you need. Thank You Sincerely SD Suraj.”

6. I have heard counsel for the parties and gone through the petition as well as the reply. It would be relevant to extract paragraph 12 of the aforesaid reply which reads as follows:

“That the role of the petitioner Munesh Devi in the present case is that she is Assistant Sub-Inspector in Gurugram Police. She was in touch with accused Mahesh Phogat and that she had conversed from her mobile no. [REDACTED] with accused Mahesh Phogat on his mobile no. [REDACTED] eleven times during the period from 01.07.2022 to 12.06.2023. Further, the accused Mahesh Phogat has stated before the police that from the amount of Rs. 70,000/- he had received, he had given Rs. 35,000/- to the petitioner in cash.”

7. Counsel for the petitioner has argued that it is a case of false implication, and the FIR was registered after a delay of 60 days. He further submits that the petitioner is falsely implicated, and there is no evidence against her that she had received any money. Even per the prosecution’s case, out of the demand of Rs.2 lakhs, Rs.90,000/- was paid to Binita Kumari. He further submits that the telephonic conversation is not connected with the petitioner.

8. However, on the contrary, Mr. Rajat Gautam, Additional Advocate General for the State of Haryana submits that it was a case of honey trap in which the petitioner, being a Police Officer, was involved. She also tried to befool the complainant and got her share of the bribe from the total bribe received by her co-accused. Even though she had a due



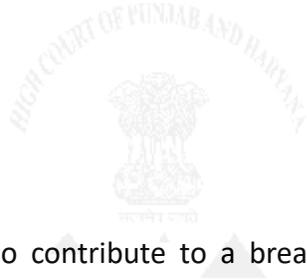
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from the share of the remaining amount, they were exposed before the complainant would have paid it. He further submits that it is a case of honey trapping where innocent males are being allured to do a consensual sexual activity, which is later given the color of forcible sexual intercourse, i.e., rape or molestation, and money is extracted from them. State counsel further submits that the families are being destroyed because of this honey trapping, and whatever the complainant has stated in the complaint is truthful. State counsel on instruction submits that they want custodial interrogation of the petitioner to find out the involvement of other ladies involved in similar honey trapping.

9. An analysis of pleadings of the bail petition and the reply as well as the arguments addressed in the Court would lead to the following outcome.

10. The prosecution has gathered sufficient evidence that the petitioner persuaded the complainant to settle the matter in return for money. Being a police officer, she was under an obligation to maintain law and order and to protect people from any crime. On the contrary, she was a member of a trapping gang and was extorting the complainant to extract money from him. The petitioner, being a member of the police force, was aware of soft provisions to deal with false implications and also wrong provisions, when the complainant and witnesses make a false statement, and she exploited the legal loopholes by circulating to the complainant that in case he did not pay, he would be involved in a severe sexual offence matter, and his liberty would be socially curtailed. Under such pressure, they were able to extract an amount of Rs. 90,000/-from the complainant.

11. The Legislature had made extremely stringent laws to protect women from perverts, criminals, and those who do not respect womanhood. However, evil women like the petitioner, themselves being female and knowing their frailty, took advantage of the provision of stringent laws enacted to protect them by roping in innocent males in honey trapping. Honey trapping is a sneaky tactic to cheat, like a spider weaving a web to catch its prey. Honey trapping, often employed for espionage or personal gain, involves seduction to manipulate individuals into compromising situations. Beyond damaging trust in personal relationships, it can have broader societal consequences. In the realm of national security, honey trapping can jeopardize confidential information as individuals targeted may unwittingly disclose sensitive details. It poses a threat not only to the individuals involved but also to the security of nations. Governments and organizations invest heavily in counterintelligence to mitigate these risks. On a societal level, the erosion of trust due to honey trapping can lead to increased skepticism and suspicion. People may become more guarded, hindering genuine connections and



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cooperation. It may also contribute to a breakdown in the social fabric and healthy relationships because human collaborations are built on a foundation of trust.

12. In today's world, social media platforms are used as channels through which individuals seek to quench their basic social need to form human connections. In their quest to seek human companionship, amid impulsive expectations to indulge in relationships, they become susceptible to malicious attacks by certain notorious elements of society, who, on the pretext of forming a genuine connection, aim at monetary gains through harassment and extortion of the unsuspecting public. When such personal interactions take a more intimate contour, black and white seems to become an indistinguishable grey to the naked public eye. Given the historical and cultural fabric of Indian society/trusts the female narrative, as crimes against women have time and again shocked the collective conscience of our society. However, in cases where the 'victim narrative' is fabricated, as a ploy used by certain evil-intentioned women to threaten or harass innocent men and take advantage of our criminal justice system, serious consideration and sensitization is required. In such sensitive matters, where a guiltless man, aggrieved by false play, in order to protect his dignity and hard-earned reputation, knocks on the door of our criminal justice system to salvage whatever is left of his sanity, and is driven astray, it is a matter of grave concern for the society at large. We have to ask ourselves if we want to accept a society where a public officer on duty to protect the welfare of its citizens, instead of assuring the victim of an alleged crime of getting justice, monopolizes and thrives on his fear and vulnerability, potentially aiding and assisting the real perpetrators of crime, in lieu of money? In our society, when a man is charged with a heinous crime like that of rape, the consequences, both legal and social, are profound. The burden of potentially carrying a tainted reputation for life may lead even a socially well-adjusted man to lose his personality, make him unable to face his family, friends, and peers, potentially driving him to depression or suicide because of the associated shame, fear, humiliation, loss of career and loss of honour which comes along with such allegations. The effects of false accusations of molestation or rape on a man's psychological, professional, and personal well-being are devastatingly far-reaching, and the adverse impacts of such labelling on a virtuous rational man's psyche and personality cannot be quantified. It is these ill effects that serve as an ideal environment for those who wish to flourish in the honey-trapping business, pushing the victim into a corner so he has no other alternate recourse than to succumb to their unfair demands in a potentially volatile situation.

13. The petitioner's conduct has led to the outcome captioned above. An analysis of the allegations and evidence collected does not warrant the grant of bail to the

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petitioner. Given the nature of allegations, the petitioner fails to make a case for anticipatory bail, and her custodial interrogation is required to unearth the racket and find the involvement of other police officers and other members of the gang.

14. In *Sumitha Pradeep v Arun Kumar CK*, 2022 SCC OnLine SC 1529, Supreme Court holds,

[16]. ... 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 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 anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

15. In *State of Gujarat v. Mohanlal Jitmalji Porwal* (1987) 2 SCC 364, Supreme Court holds,

[5].The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

16. In *State rep. by CBI v. Anil Sharma*, (1997) 7 SCC 187, 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



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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.

17. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, 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].

18. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

[34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

[35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

19. In P. Chidambaram v. Directorate of Enforcement, 2019 9 SCC 24, Supreme Court holds,

[70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

20. In Central Bureau of Investigation v. Santosh Karnani, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

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[24]. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

[31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, "Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority." Hence, the need to be extra conscious.

21. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

22. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. Interim orders, if any, stand vacated. All pending applications, if any, also stand disposed.

(ANOOP CHITKARA)
JUDGE

Dec 08, 2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: **YES.**