



CRM-M-59739 -2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-59739-2024 (O&M)

Decided on : 16.12.2024

SUKHDEEP SINGH ALIAS SUKHPREET SINGH ALIAS SUKH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Rakesh Gupta, Advocate
for the petitioner

Mr. Vinay Kumar Malhotra, DAG Punjab

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.88 dated 02.09.2024, under Sections 3(5), 118(1), 351(2) of BNS (Sections 115(2) and 118(2) of BNS added later on vide GD No.25 dated 11.09.2024) registered at Police Station Sadar Patti, District Tarn Taran, the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail.
2. The contents of the above-mentioned FIR are reproduced herein below :-

“Statement of Shubhdeep Singh son of Gurpreet Singh son of Kulwant Singh resident of Kot Budha aged 17 years, Mobile No.8264178194. Stated that I am resident of abovementioned address. I am studying in 10+2. We are two brothers and sisters. My father is working in JP Finance at Ludhiana. We have three shops outside our house and on the backside of the shops, there is our house and a street leading to our house. However, Raghbir Singh son of Balkar Singh resident of Kot Budha used to park his car in the street, to whom, we asked once or twice for not parking the car in the street as we faces difficulty to



commute. On 22-08-2024 at about 06:30 PM, I was going to Mala Cutting Shop for getting my beard and hair trimmed. When I reached near the shop of Mala, then Raghbir Singh alias Bir son of Balkar Singh armed with Datar, Sukhpreet Singh alias Sukh son of Balkar Singh armed with Datar, Sidak Singh alias Peeti son of Kulwant Singh armed with baseball were standing ahead and Raghbir Singh raised an alarm (Lalkaara) that catch him, today don't let him go dry as he used to stop us from parking the car in the street, following which, Sukhpreet Singh gave a Datar blow straightway upon me. However, I brought forward my right arm to save myself, which hit little below the elbow joint of my right arm. Thereafter, Raghbir Singh gave a Datar blow straightway upon me, which hit on the right side of my head and I fell down and while lying down, Sidak Singh gave a baseball blow upon me, which hit on the backside of my head. I raised an alarm of "Killed Killed" and upon seeing the people gathering, the assailants ran away from the spot along with their respective weapons while giving threats. Thereafter, upon hearing my screams, Nishan Singh son of Bahal Singh resident of Seeto Nau came on the spot, who arranged a vehicle and Nishan Singh Laftain Singh son of Kulwant Singh resident of Jaloke got me admitted at Civil Hospital, Ghariala, where, I am under treatment. As of now, the respectable persons kept on making attempt to effect compromise amongst us, which could not succeed. The cause of enmity is that he used to park his car in the street leading to our house and we used to stop him. Today I along with my father Gurpreet Singh was coming to inform you. You met. I have produced before you the MLR issued by the doctor sahib along with X-Ray report and films. Take legal action against Raghbir Singh, Sukhpreet Singh sons of Balkar Singh, Sidak Singh son of Kulwant Singh all residents of Kot Budha. I am the claimant. Sd/- Shubhdeep Singh. Attested Sd/-ASI Palwinder Singh No.999/TT Chowki Sabhra, Police Station Sadar Patti dated 02-09- 2024."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case and no other specific allegations have been made against the petitioner in relation to the incident. There is a delay of 10 days in registering the FIR and there is no other case registered against the petitioner.

4. In compliance to the order dated 29.11.2024, short reply dated 03.12.2024 has been filed by the learned State counsel in Court today, which is taken on record He while relying upon said reply submits that there are serious



allegations against the petitioner and that he has actively participated in the alleged offence. He has submitted that as per MLR No. 162/NKS/GYL/2024 dated 22.08.2024, the complainant, a minor, sustained three injuries, out of which injury attributed to the petitioner has been declared grievous in nature. Statements of multiple eyewitnesses corroborate the incident, and the recovery of the weapon used further substantiates the charges. Given the gravity of the offence, its impact on society, and the petitioner's evasion, the counsel argues that he is not entitled to anticipatory bail.

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 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 ***Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694*** rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon’ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society’s interest in maintenance of peace, law and order. Both are equally important.”

9. There are serious allegations levelled against the petitioner. A number of injuries were inflicted on the person of the complainant and one of the injuries which is attributed to the petitioner has been declared grievous in nature. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.
10. The petition is dismissed.
11. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
12. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

16.12.2024
Kavita

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