

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-4777 of 2015

Date of Decision: 9.3.2015

Bhushan Kumar Sharma

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. A.D.S.Sukhija, Advocate
for the petitioner(s).

Mr. Neeraj Yadav, Assistant Advocate
General, Punjab for the respondent.

Darshan Singh, J.

1. This petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") by petitioner Bhushan Kumar for grant of anticipatory bail.

2. The prosecution case, as per the statement of complainant Inderjeet Kaur, is that accused Parmod Kumar is residing in House No. 1427/2, Phase 11, Mohali near hear house. He indulges in the flesh trade for the sake of money. On 14.1.2015, he brought one girl, namely Sadhna and sent her with Jaswinder Singh alias Sonu, resident of Krishan Nagar, Amloh for the purpose of prostitution. Some intoxicating material was administered to her and when she was brought back, she was unconscious and lateron died. Parmod Kumar was preparing to cremate her when complainant Inderjeet Kaur reported the matter to the police on the basis of which the case was registered under Sections 3,

4 & 5 of the Immoral Traffic (Prevention) Act, 1956 and Section 304 & 328 IPC. Petitioner Bhushan Kumar apprehends his arrest. Hence, this petition.

3. Learned counsel for the petitioner has pleaded that there is no evidence against the petitioner to connect him with the commission of the crime. He is being implicated simply on the disclosure statements made by the co-accused which is not the legal evidence. He is ready to join the investigation. The name of the petitioner does not figure in the FIR nor he has been named by any of the witnesses. So, he deserves the concession of anticipatory bail.

4. On the other hand, learned State counsel contended that the offence is of very serious nature. An innocent girl has lost her life in the flesh trade being run by the applicant and his co-accused Parmod Kumar and Nisha. He contended that the applicant has carried deceased Sadhna to Jaswinder in his own car and also received an amount of ₹ 1,000/-. He further contended that the case is at the initial stage of the investigation. It is premature to allege that there is no evidence against the petitioner. His custodial interrogation is also needed to recover the car and to ascertain his role. Thus, he pleaded that the petitioner is not entitled for the grant of anticipatory bail.

5. I have duly considered the aforesaid contentions.

6. The Hon'ble Apex Court in case ***Jai Prakash Singh v. State of Bihar and Another etc. 2012(2) R.C.R. (Criminal) 251*** has laid down that the anticipatory bail being an extraordinary privilege should be granted only in exceptional cases. It was further laid down as under:

“18. 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 therefore. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See: D.K. Ganesh Babu v. P.T. Manokaran & Ors., (2007) 4 SCC 434; State of Maharashtra & Anr. v. Mohd. Sajid Husain Mohd. S. Husain & Ors., (2008) 1 SCC 213; and Union of India v. Padam Narain Aggarwal & Ors., (2008) 13 SCC 305).”

7. In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court, the anticipatory bail, being an extraordinary privilege, can be granted only in exceptional circumstances/cases.

8. In the instant case, the allegations are of serious nature. An innocent girl had lost her life in the flesh trade. The involvement of the petitioner has been disclosed by co-accused Parmod Kumar and Nisha in their interrogation by the Investigating Officer. They have disclosed that the petitioner had left the deceased with Jaswinder Singh and Rajwinder Singh in his swift car and has also received ₹ 1,000/-. The case is still at the stage of initial investigation. So, it is premature at this stage to contend that there was no evidence against the petitioner as the investigation is at the initial stage and further investigation is yet to be carried out. The custodial interrogation of the petitioner may also be required in order to recover the car used in the crime and to ascertain

his role in the commission of the crime. The custodial interrogation is always well oriented than the interrogation of an accused having a protective ring of the anticipatory bail.

9. Thus, keeping in view my aforesaid discussion, the present petition has no merits and the same is hereby dismissed.

(Darshan Singh)
Judge

March 9, 2015

“DK”