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

**CRM-M No.45865 of 2016
Date of Decision: 24.03.2017**

Gurbachan Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. Neeraj Yadav, AAG, Punjab
for the respondent-State.

DEEPAK SIBAL J. (ORAL)

Learned counsel for the petitioners has filed short affidavits dated 23.03.2017 of petitioner No.1 and petitioner No.2, in Court today, which are ordered to be taken on record. Copies of the same have been handed over to learned State counsel.

Learned State counsel has also filed on behalf of the State a short affidavit dated 24.03.2017 of Daljit Singh, PPS, Deputy Superintendent of Police, Sub Division, Kapurthala, District Kapurthala in Court today which is also ordered to be taken on record. A copy of the same has been furnished to learned counsel for the petitioners.

Through the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Code'), the petitioners seek the grant of anticipatory bail in FIR No.230, dated 05.12.2016, registered under Sections 22/61/85 of NDPS Act, at Police Station

Kotwali, District Kapurthala.

Seeking anticipatory bail for the petitioners, learned counsel submits that the petitioners have not committed any of the alleged offences; the allegations in the FIR are highly improbable as it is not possible that the petitioners would have fled from the spot in the presence of as many as 08 policemen; there is no other case under the NDPS Act pending against the petitioners and that the present case has been registered against the petitioners only on account of political vendetta.

In support of the above arguments, learned counsel for the petitioners has relied upon the following orders passed by this Court:-

- “1. CRM-M No.3998 of 2015 titled as *Joga Singh Vs. State of Punjab*
2. CRM-M No.39792 of 2016 titled as *Ashok Kumar Vs. State of Punjab*
3. CRM-M No.33639 of 2015 titled as *Harmesh Singh alias Harmesh Vs. State of Haryana*
4. CRM-M No.30531 of 2016 titled as *Nishan Singh Vs. State of Haryana*
5. CRM-M No.22040 of 2015 titled as *Soni Singh @ Soni Vs. State of Punjab and another*
6. CRM-M No.7953 of 2013 titled as *Gurjant Singh @ Amardeep Singh Vs. State of Punjab.*”

Opposing the grant of anticipatory bail to the petitioners, learned State counsel submits that the petitioners are habitual offenders; the recovery from the petitioners could not be effected from the spot as they managed to flee; there was no political vendetta as alleged and that not only narcotics, cash amounting to Rs.32,700/- was also recovered from the petitioners.

A perusal of the affidavit dated 24.03.2017 filed by State in

Court today shows that since the year 2007, the petitioner(s) have been involved in as many as 10 criminal cases which are under the Excise Act, for causing injuries, trespassing, obstructing a police officer from doing his duty as also for outraging the modesty of women.

Out of the 10 cases the petitioners were acquitted in 4. The details of the remaining 6 cases are given in a tabulated form as under:-

Sr. No.	Particulars of case	Name of accused
1.	FIR No. 124, dt. 6.6.15 U/s 354/506 IPC P.S. Kotwali, Kapurthala	Gurbachan Singh
2.	FIR No. 123, dt. 6.6.16 U/s 353/186/427 IPC P.S. Kotwali, Kapurthala	Gurbachan Singh
3.	FIR No. 82 dated 03.05.15 U/s 452/323/324/148/149 IPC P. S. Kotwali, Kapurthala	Gurbachan Singh & Balwinder Singh
4.	FIR No. 81 dt. 03.5.15 U/s 323/324/34 IPC P. S. Kotwali, Kapurthala	Gurbachan Singh
5.	FIR No. 127 dt. 25.9.12 U/s 61/1/14 Excise Act	Gurbachan Singh
6	FIR No.230 dt. 05.12.2016 U/s 22/61/85 NDPS Act, P.S. Kotwali, Kapurthala	Gurbachan Singh & Balwinder Singh

The case at item No.1 was lodged against petitioner No.1- Gurbachan Singh in the year 2015 with the allegations that he had outraged the modesty of women as also for issuing threats to them. The FIR was quashed by this Court through order dated March 04, 2016 passed in ***CRM-M No.42126 of 2015 - Gurbachan Singh Vs. State of Punjab and another*** only for the reason that the petitioner compromised the matter with the complainant therein.

In the case at item No.2, the allegations are against petitioner No.1 are for obstructing a police officer from doing his duty. In this case the petitioner is facing trial.

The case at item No.3 was lodged against both the petitioners with the allegations that they had, after trespassing, inflicted injuries on

the complainant therein. This FIR was quashed by this Court on the basis of compromise.

Next in line is the case at item No.4 which was lodged against petitioner No.1 for allegedly having caused injuries to the complainant therein. This FIR was also quashed by this Court as in this case also the petitioner compromised the matter with the complainant therein.

The case at item No.5 pertains to offences committed by petitioner No.1 under the Excise Act, in which he stands convicted and sentenced.

The case at item No.6 is the present case.

A perusal of the above shows that the petitioners have been/are involved in several other criminal cases, in one of which they have been sentenced; petitioner No.1 is facing trial in one of them and in three others, which have been quashed by this Court only for the reason that the matter was compromised by the petitioner(s) with the respective complainant(s).

A perusal of the contents of the present petition, does not find any reference to any of the above cases. In my opinion, involvement of an applicant for anticipatory bail in other criminal cases along with the status thereof, which are in the applicant's knowledge are required to be disclosed in a petition seeking anticipatory bail as such information throws adequate light on the applicant's antecedents which is one of the factors to be gone into by the Court to determine whether the applicant deserves the grant of anticipatory bail.

For having suppressed material particulars, as above, it is not

difficult for me to conclude that the petitioners have not approached this Court with clean hands and this factor alone is enough to disentitle them to the grant of anticipatory bail.

The above facts further reveal that while on bail in one or more of the above referred cases, the petitioners allegedly committed offences. Thus, misusing such concession.

Even otherwise, the allegations against the petitioners are serious, it is alleged that they are not only dealing with narcotics but on seeing the police party, after recognizing one of its members, fled from the spot. Fleeing to evade arrest is another factor which would go against the petitioners while considering their case for the grant of anticipatory bail especially when for the last decade they are found to be involved in several other criminal cases.

The submission of learned counsel for the petitioners that the petitioners could have not possibility fled in the presence of 08 policemen cannot be commented upon at this stage as the investigation in the case has not yet concluded.

The plea of political vendetta raised on behalf of the petitioners also would not go on to support their case since, as noticed above, the petitioners have been involved in several criminal cases in the last decade and that being so, it is difficult to hold that for all these years they had been victims of politics especially when several of the criminal cases referred to above are at the instance of private individuals with whom the petitioners later compromised the matter.

The source of the narcotics allegedly recovered from the petitioners and the recipients of the same, if any, needs to be probed.

The afore-referred judgments cited by learned counsel for the petitioner do not support the petitioners' case.

In Joga Singh's case (supra), the petitioner therein was not found to have come to the Court with unclean hands; was not involved in other criminal cases and in that case, challan after completion of investigation had already been filed.

In Ashok Kumar's case (supra), the petitioner therein was sought to be implicated only on the basis of a disclosure statement made by a co-accused; he was not involved in other criminal cases and there was no issue therein with regard to the non-disclosure of material particulars.

Harmesh Singh's case (supra) would also not help the case of the petitioners as none of the facts as in the present case are found in that case except that the petitioner therein had also not been arrested at the spot.

Gurjant Singh's case (supra) would also have no application as in that case, it was specifically recorded that there was no history of any previous involvement of the petitioner therein and that the State had suffered a statement before the Court that the petitioner therein was longer required for any further interrogation.

In Nishan Singh's case (supra) also the State had stated before the Court that the petitioner therein was not required for custodial interrogation.

In Soni Singh's case (supra) also, none of the facts as are found in the present case are found therein. Further, the co-accused in that case had already been granted the concession of anticipatory bail.

In view of the above discussion, in my opinion, the petitioners' custodial interrogation is warranted.

Dismissed.

Nothing observed herein-above shall be considered to be an expression of opinion by this Court on the merits of the case.

(DEEPAK SIBAL)
JUDGE

March 24, 2017
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No