

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.No.M-17230 of 2018 (O&M)

Date of decision : 09.05.2018

Harsimrat Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Surinder Thakur, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Deepak Kumar, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J.(Oral)

The petitioner has preferred the instant petition under Section 438 Cr.P.C. for issuance of direction to the Arresting/Investigating Officer to release the petitioner on bail in case FIR No.21 dated 25.01.2018, registered under Sections 420, 406, 34 IPC, at Police Station Garhshankar, District Hoshiarpur, Punjab

It is a case of the prosecution that petitioner Harsimrat Singh Bajwa and his father are the travel agents. Navjeet Singh, son of the complainant was temporarily residing in Georgia. They discussed with the petitioner and his father for sending the son of complainant from Georgia to Greece. The amount was settled at Rs.3,50,000/-. They paid Rs.1,50,000/- in cash, in advance, and the remaining amount of Rs.2,00,000/- was to be paid when his son will reach in Greece. But they

managed visa for one month of Turkey.

Unfortunately, on 08.12.2017, the complainant came to know from social media that his son has been murdered by someone within Turkey.

The complainant has appeared in person before this court alongwith his counsel. He has placed on record the death certificate of his son, issued by foreign country which transpires that Navjeet Singh has died on 04.12.2017.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner is willing to return Rs.1,50,000/-, subject to the decision of the Court. However, the complainant has refused to accept the said offer and urged that the petitioner has infact murdered his son.

The serious allegations have been levelled against the petitioner that he alongwith his father duped Rs.1,50,000/- from the complainant and that he alongwith his associates had murdered Navjeet Singh in a foreign country.

The remedy of anticipatory bail is extraordinary and should be used in exceptional cases. The Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others 2011 AIR (SC) 312*** pleased to issue the following parameters:-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to

- whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

Keeping in view the facts in totality, this Court is of the view that the petitioner is not entitled to the concession of anticipatory bail.

Accordingly, the instant petition stands dismissed.

09.05.2018
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No