

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

CRM-M-50112-2018 (O&M)
Date of decision: 13.2.2019

Vijay

... Petitioner(s)

VERSUS

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Vikram Lakhlan, Advocate.
for the petitioner

Mr. Pawan Garg, AAG, Haryana.

Mr. Narender Kumar Sharma, Advocate,
for the complainant.

RAJ SHEKHAR ATTRI, J.

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.195 dated 17.10.2018 registered for the offences punishable under Sections 148, 149, 323, 365, 452, 506, 511 of Indian Penal Code and Section 25 of Arms Act, at Police Station Behal, District Bhiwani.

Heard.

The allegations levelled against the petitioner in the FIR are that he entered the house of the minor prosecutrix and he tried to kidnap her. However, she raised alarm which attracted her family members. The petitioner inflicted injuries upon them.

Learned counsel for the petitioner has submitted that the prosecutrix has love affairs with the petitioner and to substantiate this plea,

he placed on record some photographs which are taken on record.

The prosecution agency wants to recover the weapon of offence and to know the names of the remaining assailants who accompanied the petitioner.

The remedy of anticipatory bail is extraordinary and should be used in exceptional cases. The Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre v. 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 and circumstances of the case, this Court is of the view that the custodial interrogation of the petitioner is necessary.

Accordingly, the present petition stands dismissed.

February 13, 2019

Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No