

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 30146 of 2020
Date of Decision: 30.9.2020**

Vasu Pathak

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This is a petition under Section 482 Cr.P.C. for issuance of directions to respondents No. 2 to 14 to give 10 days advance notice in case the petitioner is required in any cognizable offence.

Learned counsel for the petitioner submits that the petitioner has filed CWP No. 36412 of 2019 in which status report regarding the investigation in the scam worth Rs. 1200 crores has been called for. He further submits that the petitioner has been collecting the evidence in the present case for bringing the documents on record under the Prevention of Money Laundering Act in which the senior police officers are involved. He further submits that the investigation regarding drug money, black money and the money involved in the real estate business is also being looked into by the Special Task Force, constituted by Govt. of Punjab. Learned counsel for the petitioner also submits that the petitioner apprehends his implication

in some false case and prays that in case the petitioner is required in any cognizable offence, 10 days' advance notice may be issued to him.

Notice of motion.

On the asking of the Court, Mr. Pawan Sharda, Sr. DAG, Punjab, accepts notice on behalf of the State.

I have heard the learned counsel for the petitioner as well as the learned State counsel.

The petitioner is a whistle-blower and the Special Task Force, Punjab headed by A.D.G.P., Punjab is looking into the real estate/drug mafia and the petitioner is in the process of appearing before the Special Task Force and has been supplying the required documents. The petitioner has prayed that in case he is required in any criminal case, advance notice may be issued to him.

The Hon'ble Apex Court in ***Sushila Aggarwal and others versus State (NCT of Delhi) and another 2020 (1) R.C.R. (Criminal) 833*** has held as under:-

“This court, in the light of the above discussion in the two judgments, and in the light of the answers to the reference, hereby clarifies that the following need to be kept in mind by courts, dealing with applications under Section 438, Cr. PC:

(1) Consistent with the judgment in [Shri Gurbaksh Singh Sibbia and others v. State of Punjab](#) 54, when a person complains of apprehension of arrest and approaches for order, the application should be based on concrete facts (and not vague or general allegations) relatable to one or other specific offence. The application seeking anticipatory bail should contain bare essential facts relating to the offence, and why the applicant reasonably apprehends arrest, as well as his 1980 (2) SCC 565 side of the story. These are essential for the court which should consider his

application, to evaluate the threat or apprehension, its gravity or seriousness and the appropriateness of any condition that may have to be imposed. It is not essential that an application should be moved only after an FIR is filed; it can be moved earlier, so long as the facts are clear and there is reasonable basis for apprehending arrest.

x x x x x”.

Keeping in view the facts and circumstances of the present case and the judgment passed by the Apex Court in ***Sushila Aggarwal***'s case, in case some cognizable action is to be taken against the petitioner, three days' advance notice be issued to the petitioner.

The petition stands disposed of.

(HARNARESH SINGH GILL)
JUDGE

September 30, 2020
Gurpreet

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