

CRM-M-32415-2019 (O&M)

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

**CRM-M-32415-2019 (O&M).
Decided on: February 19, 2020.**

Parminder Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Gurpreet Singh Dhillon, Advocate,
for the petitioner.**

Mr.Ajay Pal Singh Gill, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

Through the present second petition filed under Section 438 Cr.P.C., the petitioner prays for the grant of anticipatory bail in case FIR No.116 dated 16.04.2019, under Sections 307, 323, 506, 341, 148 and 149 IPC, registered at Police Station, Model Town, District Hoshiarpur.

Learned counsel for the petitioner has argued that in the present case the FIR which has been lodged against the petitioner is false because a bare reading of the FIR would show that the dispute which has been shown in the FIR was an old dispute between the complainant and the

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petitioner. He has further argued that even otherwise also the injuries which have been attributed to the petitioner are simple in nature and they are not grievous and now the same has also been clarified by the State in the affidavit. He has further stated that offence under Section 307 IPC is not made out.

He has submitted that in the earlier application for anticipatory bail filed in this Court by the petitioner, the State had taken a stand that the injuries received by the complainant were dangerous to life and therefore, said application was dismissed by a Coordinate Bench of this Court vide Annexure P6 on 15.7.2019. He has further submitted that now he has filed the present petition for anticipatory bail in which the State was directed to file a categorical affidavit as to whether the injuries were simple or grievous in nature. He has further submitted that in the affidavit which has now been filed, the State has taken a stand that the injuries were simple in nature and they were not grievous and it was due to miscommunication that the earlier petition was dismissed and therefore, the present petition would be maintainable even though the first petition has been dismissed on merits.

Learned State counsel, on instructions from SI Chanchal Singh, states that in the present case it is correct that the injuries which were attributed to the petitioner as per MLR are not serious in nature and it was due to miscommunication at that point of time that the State had taken a stand that the injuries were grievous.

Learned State counsel has fairly conceded that the present petition would be maintainable in view of the miscommunication so

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made.

However, on merits, the learned State counsel has opposed the petition for the grant of anticipatory bail stating that the State has now filed affidavit of the Superintendent of Police, Sub Division City, District Hoshiarpur, wherein, in para 2, it has been mentioned that the petitioner is a habitual offender and number of cases have been registered against him. The total cases which have been registered against the petitioner are reproduced as under:-

Sr. No.	FIR	Date	Under Section	P.S.	Present status
1	FIR No.77	10/07/07	307, 324,323, 148 and 149 IPC	P.S.Haryana	Acquitted on 12.1.09
2	FIR No.16	11/03/09	323, 341, 34 IPC	P.S.Haryana	Acquitted on 17.3.11
3	FIR No.100	21.12.2015	379, 411 IPC, 21 (1) Mines & Mineral Act, 1957	P.S.Haryana	Pending
4	FIR No.128	16.12.2014	302, 336, 148, 149 IPC, 25, 27, 54 Arms Act	P.S.Haryana	Acquitted
5	FIR No.21	27.02.2008	323, 324, 506, 148 and 149 IPC	P.S.Haryana	Acquitted on 8.5.12
6	FIR No.80	13.09.2015	379, 411 IPC, 21 (1) Mines & Mineral Act, 1957	P.S.Haryana	Convicted on 30.3.2017
7	FIR No.49	20.05.2016	379 IPC, 21 (1) Mines & Mineral Act, 1957	P.S.Haryana	Convicted on 15.12.2018
8	FIR No.49	21.04.2016	323, 324, 364, 379, 427, 148, 149 IPC, 25 Arms Act	P.S.Sadar, Hoshiarpur.	Convicted

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Sr. No.	FIR	Date	Under Section	P.S.	Present status
9	FIR No.41	11/05/16	307, 323, 324, 326, 148 and 149 IPC, 25, 54, 59 Arms Act	P.S.Bulalowal	
10	FIR No.84	11/06/18	325, 323, 34 IPC	P.S.Haryana	Pending
11	FIR No.89	04/08/19	307, 326, 324, 148, 149 IPC	P.S.Haryana	Pending
12	FIR No.95	27.06.2019	307, 34 IPC and 25/54/59 Arms Act	P.S.Bulalowal	Pending
13	FIR No.122	02/08/19	451, 427, 506, 148 and 149 IPC	P.S.Bulalowal	Pending
14	FIR No.11	24.01.2020	25/54/59 Arms Act	P.S.Bulalowal	Pending

Learned State counsel has stated that in the present case, especially in view of the antecedents of the petitioner and the fact that the matter is serious in nature, custodial interrogation of the petitioner would be required.

I have heard the learned counsel for the petitioner as well as learned State counsel and gone through the record of the case.

So far as the maintainability of the present second petition for the grant of anticipatory bail is concerned, since earlier petition was dismissed on account of some mis-communication, the present petition is held maintainable. On merits, however, a bare perusal of the affidavit filed by the State would show that the matter is in fact serious in nature and even if it was a case of cross-version, as stated by the learned counsel for the petitioner, still custodial interrogation of the petitioner in this case

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would be required. A perusal of para 2 of the affidavit would show that 14 FIRs were registered against the petitioner out of which 4 FIRs pertain to offence under Section 307 IPC, in which there are two convictions under Section 379 and 411 IPC as well under section 21 (1) of the Mines and Mineral Act, and one under Sections 323, 324, 364, 379, 427, 148 and 149 IPC as well as under Section 25 of the Arms Act and in four cases, the petitioner has been acquitted but the remaining cases are still pending.

While considering the grant of anticipatory bail under Section 438 Cr.P.C., the Court has to see and weigh the probabilities which emanate from the facts and circumstances of the case and also considering the totality of the circumstances with regard to the petitioner who is seeking relief of anticipatory bail. The grant of anticipatory bail is an extra-ordinary remedy and the same has to be exercised in a cautious manner.

Thus, considering the above stated total 14 FIRs registered against the petitioner along with other facts, I deem it a fit case where concession of anticipatory bail should not be granted to the petitioner. Consequently, the present petition is hereby dismissed.

Interim order dated 23.01.2020, stands vacated.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

February 19, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No