

103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.11027of 2021
Date of Decision : 07.04.2021

Gurpreet Singh ...Petitioner
Versus
State of PunjabRespondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Parminder Walia, Advocate
for the petitioner.
Mr.Hittan Nehra, Addl. AG, Punjab.
Mr. Pankaj Bali, Advocate for the complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.200 dated 25.11.2020 registered under Sections 323, 234, 379-B, 506, 148, 149 IPC at Police Station City-2, Khanna, Punjab.
3. Learned counsel contends that the petitioner has been implicated in a false case regarding inflicting injuries and snatching of bag containing Rs.3,85,000/- as he was not present at the spot, therefore, the petitioner is entitled to be released on pre-arrest bail.
4. Per contra, learned State counsel contends that FIR was registered against the petitioner, his brother and father besides other unknown persons on the allegations that on 25.11.2020 at about 12.30 pm, when the complainant was going on his vehicle No.PB-23-0508 to the Bank along with Rs.3,85,000/- and reached near Sabji Mandi, Amloh road, his vehicle was hit by another vehicle which was driven by Sanpreet Narang i.e. brother of the petitioner whom the complainant knew from earlier, that

said Sanpreet Narang started abusing the complainant and on the complainant getting out of his vehicle, two unknown persons tried to take away his bag of cash and when the complainant tried to stop them, Sanpreet Narang hit the complainant on his head with a heavy stone and also called his father Naresh Kumar and brother Gurpreet Singh whereupon the petitioner-Gurpreet Singh attacked the complainant with a sharp edged object on the head and then all the persons fled from the spot along with bag containing Rs. 3,85,000/-. Learned State counsel contends that in the circumstances, the petitioner is not entitled to the concession of pre-arrest bail. Learned Addl. AG, Punjab relies on the decision of Hon'ble the Supreme Court in the case of **Jai Parkash Singh vs. State of Bihar and another (2012) 4 SCC 379**, to contend that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty.

5. Learned counsel for the complainant on the other hand has referred to complaint, Annexure R2/1 dated 13.02.2019 submitted by the complainant to SSP, Khanna, District Ludhiana qua threats by Naresh Kumar i.e. father of the petitioner and other unknown persons to kill him because of case of fraud having been registered by the complainant against the petitioner's mother Mamta Rani. Learned counsel has also referred to Annexure R2/2 dated 01.03.2019 i.e. complaint given by the complainant to SHO Police Station City-2, Khanna regarding threats given by the petitioner's father Naresh Kumar, his brother Sunny Kumar along with two unknown persons of elimination / involvement in false case of drugs on account of FIR having been registered under Section 420 and 406 IPC, by the complainant's relative against the petitioners mother,

and requesting appropriate protection in view of apprehension of being surrounded and attacked by said persons. Learned counsel for the complainant has thereafter referred to Annexure R2/3 i.e. compromise executed between the complainant and the petitioner's father as also photographs Annexure R2/4 of the date of incident showing injury on the forehead and on the back of the head of the complainant. Learned counsel for the complainant has also referred to the inquiry, conducted by the Police on the application given by the petitioner's mother, Annexure R2/5, in which statement of witness-Harish Kumar is referred that at the time of incident, he was present at the spot and Sanpreet Narang and Gurpreet Singh (petitioner herein) after giving beating to Kailash Chander i.e. complainant, ran away from the spot along with two other unknown persons on a black coloured scooter by taking the bag and that he also ran behind them but due to heavy rush they ran away between the streets.

6. I have considered the submissions of learned counsel.

7. Categorical allegations in the FIR are of the complainant having been attacked by the petitioner as well as by the petitioner's brother and father and two unknown persons, of having been inflicted blow on his head with a heavy stone apart from being attacked by the petitioner with a sharp-edged object on his head and taking away of bag containing Rs.3,85,000/- by all accused. The record also reveals that a complaint had been given by the complainant as far back as on 13.02.2019 to SSP, Khanna expressing apprehension of the petitioner's father and other unknown persons against threat of elimination on account of case of fraud having been registered by the complainant against the petitioner's mother besides Annexure R2/2 dated 01.03.2019 i.e. another complaint given by

the complainant to SHO Police Station City-2, Khanna regarding threat of

elimination and implication in a false case of drugs on account of registration of an FIR under Sections 420 and 406 IPC by the complainant's relative against the mother of the petitioner.

8. Taking into account the nature and gravity of accusations, conduct of the petitioner in attacking the petitioner along with his brother, father and unknown persons, necessity of custodial interrogation of the petitioner to elicit the names of the unknown assailants accompanying the petitioner, his father and brother, when they attacked the complainant and thereafter fled along with cash of Rs.3,85,000/- as also to enable recovery of weapons used besides Rs.3,85,000/-, threat to the petitioner on account of family members of the petitioner earlier also having threatened the complainant with elimination / false implication in cases involving drugs on account of the petitioner / his relatives having registered cases against the petitioners mother and the apprehension of the petitioner expressed to the SSP Khanna earlier of being attacked by the accused persons having come true, I do not find any ground whatsoever to accept the prayer of the petitioner for grant of pre-arrest bail. Reference is also made to the decision of Hon'ble the Supreme Court in '**P. Chidambaram v. Directorate of Enforcement**', CrI. Appeal No.1340 of 2019 decided on 05.09.2019, which in turn relied on the decision of 'CBI versus Anil Sharma', 1994 (4) RCR (CrI.) 268 Relevant extract of the same is reproduced as under:-

72. Ordinarily, arrest is a part of the process of the investigation intended to secure several purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. Pre-arrest bail is to strike a balance between the individual's right

to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In State Rep. By the CBI v. Anil Sharma, (1997) 7 SCC 187, the Supreme Court held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

73. Observing that the arrest is a part of the investigation intended to secure several purposes, in Adri Dharan Das v. State of W.B. (2005) 4 SCC 303, it was held as under:-

“19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to

discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his disappearance, to maintain law and order in the locality. For these or other reasons, arrest may become an inevitable part of the process of investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well defined and the jurisdictional scope of interference by the court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of the accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interference in the investigation, which cannot, at any rate, be done under Section 438 of the Code.”

9. In view of the position noted above, no ground whatsoever is made out for grant of pre arrest bail to the petitioner. Accordingly, the petition u/s 438 Cr.P.C. is dismissed. However, nothing stated hereinabove will be taken to be an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

April 7, 2021
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Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No