

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

205

CRM-M-8497-2020.

Date of Decision: 12.08.2021.

Rameem Mohammad

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Sarfraj Hussain, Advocate for petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Rameem Mohammad** in case FIR No.50 dated 02.04.2019 under Section 379-B IPC read with Section 34 IPC and Section 25 of Arms Act, registered at Police Station Sohna, District Gurugram.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further submits that though alleged occurrence took place on 01.04.2019, whereas instant FIR was got registered on 02.04.2019 and as such there was inordinate delay of one day

in registration of FIR and that too unexplained one. He further urges that petitioner was not named in the FIR, whereas his name surfaced in the array of accused on the basis of disclosure statements of co-accused namely Mubarik and Kamaluddin. He further submits that petitioner is neither owner of car nor of mobile phone, which were allegedly used in the commission of offence. He further urges that nothing incriminating is to be recovered at the instance of petitioner. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

Reply dated 21.05.2020 by way of affidavit of Satender Kumar, HPS, Assistant Commissioner of Police, Sohna, District Gurugram, already filed on behalf of respondent-State, is taken on record.

Learned State counsel while opposing the cause of petitioner has vehemently argued that on 01.04.2019 on the pretext of sale of car through OLX, complainant-Sayad Nazeer and his brother Sekherajiuddin were made to visit Gurugram from Telangana and then on the pretext of showing them vehicle parked at some Farm House, accused persons (four in number) on their way while pointing gun, robbed them of their valuable belongings of Rs.85,000/-, wrist watch, seven ATM cards, four credit cards and two mobile phones. He further submits that during investigation, co-accused namely Mubarik and Kamaludin Ahmed were arrested and got recovered Rs.9500/- and Rs.14,500/- respectively out of the robbed amount. He further urges that above said accused disclosed the names of petitioner (Rameem Mohammad) and Sahud as co-accused, who were involved in the commission of offence. He further submits that despite conducting several

raids, petitioner could not be arrested and, thus, appearance of petitioner as well as of co-accused Sahud was sought through warrants of arrest, but to no avail. He further submits that proclamations were issued to effect appearance of petitioner as well as co-accused Sahud, but in vain and as such they were declared 'proclaimed offenders' on 21.01.2020. He further submits that during the course of investigation, offence under Section 379-B IPC read with Section 34 IPC and Section 25 of Arms Act were deleted, whereas offence under Sections 395 and 397 IPC were added in the present case. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled for the concession of pre-arrest bail.

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

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused committed robbery on gun point and thereby complainant-Sayad Nazeer and his brother Sekherajiuddin were robbed of their valuable belongings.

As pointed out by learned State counsel, petitioner has already been declared 'Proclaimed Offender' in the instant case FIR.

The Hon'ble Supreme Court in case '**State of Madhya Pradesh Vs. Pradeep Sharma**', **Criminal Appeal No.2049 of 2013 (Arising out of S.L.P. (Crl.) No.4102 of 2013)** decided on **06.12.2013** has held that if an accused is absconding and declared proclaimed offender in terms of Section 82 Cr.P.C., the said accused should not be granted anticipatory bail.

Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is now well-settled proposition of law that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the Police. The Court has also to see that the investigation is in the province of the Police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the Police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner, is dismissed.

(LALIT BATRA)
JUDGE

12.08.2021

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No