

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

**103**

**CRM-M-17787-2021.**

**Date of Decision: 12.11.2021.**

Gaurav @ Gorru @ Dharampal

....Petitioner.

Versus

State of Punjab and another

....Respondents.

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**CORAM: HON'BLE MR. JUSTICE LALIT BATRA**

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**Present:** Mr. Barjinder Singh, Advocate for  
Mr. Prateek Pandit, Advocate for petitioner.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab  
for respondent No.1-State.

None for respondent No.2-complainant.

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**Lalit Batra, J.(Oral)**

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Gaurav @ Gorru @ Dharampal** in case FIR No.137 dated 28.10.2020 under Sections 380 and 457 IPC, registered at Police Station Satnampura, District Kapurthala.

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 urges that as per FIR version, allegedly petitioner alongwith co-accused Parminder Behal @ Gagandeep committed theft in the house of complainant-Hukam Chand. He further urges that as per statement of complainant-Hukam Chand, he came to know about the alleged theft on 27.10.2020 at 12:00 noon, whereas FIR was got registered on 28.10.2020 at 10:00 PM and as such there was delay of about

further urges that petitioner has been nominated as accused in the present FIR solely on the basis of suspicion and assumption. He further submits 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.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that on 26.10.2020 at about 5:00 PM, when complainant-Hukam Chand alongwith his daughter Reeta Rani and granddaughter Sujina were locking their house to go out, petitioner alongwith co-accused Parminder Behal @ Gagandeep were watching them. He further urges that on the next day i.e. 27.10.2020 at about 12:00 noon, when complainant-Hukam Chand came back, he found the locks of his house and almirah broken and on checking, cash amount of Rs.45,000/-, 2500 Euro, gold ornaments and another cash of Rs.23,000/- were found missing. He further urges that petitioner was named in the FIR. He further urges that co-accused Parminder Behal @ Gagandeep was arrested on 28.10.2020 and he got recovered broken locks, bolt and currency notes of Rs.4,000/-. He further urges that petitioner is habitual offender as apart from instant FIR, four (04) more case FIRs have been got registered against him, details of which are as under:-

(1) *FIR No.106 dated 24.07.2019 under Section 22 of NDPS Act, registered at Police Station Satnampura Phagwara.*

(2) *FIR No.08 dated 07.02.2020 under Section 22 of NDPS Act, registered at Police Station Satnampura Phagwara.*

(3) *FIR No.66 dated 30.05.2021 under Section 22 of NDPS Act, registered at Police Station Sadar Phagwara.*

(4) *FIR No.65 dated 29.05.2021 under Sections 380 and 457 IPC, registered at Police Station Sadar Phagwara.*

He further urges that FIR No.65 dated 29.05.2021 and FIR No.66 dated 30.05.2021, as detailed above, have been registered against the petitioner even after registration of instant FIR. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth as well as to effect recovery of stolen articles and as such he is not entitled to 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 Parminder Behal @ Gagandeep broke open the locks of the house of complainant-Hukam Chand and committed theft of cash as well as jewellery. As pointed out by learned State counsel, petitioner is habitual offender involved in as many as five (05) cases including instant FIR. 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 well-settled 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 to 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**

**12.11.2021**

*jitender*

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No