

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

**103**

**CRM-M-28614-2021.**

**Date of Decision: 08.10.2021.**

Bachan Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

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

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**Present:** Ms. Puja Chopra, Advocate for petitioner.

Mr. Amit Mehta, Senior Deputy Advocate General, Punjab.

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**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-**Bachan Singh** in case FIR No.63 dated 06.07.2021 under Section 379 IPC (offence under Section 408 IPC added lateron), registered at Police Station Bakshiwala, District Patiala.

Learned counsel for the petitioner *inter alia* contends that allegations levelled against the petitioner in the FIR are altogether concocted, false and frivolous and there is no iota of truth therein. She further submits that allegedly petitioner alongwith co-accused Harjinder Singh and two other accomplices committed theft of two *Tahli* (Sheesham) trees from Jhambe Drain of the Forest Range, Patiala. She further urges that as a matter of fact, petitioner aged about 60 years is working as 'Baildar' on

which was allegedly used for commission of theft does not belong to petitioner. She further urges that since alleged recovery of wood has already been effected, nothing incriminating is to be recovered at the instance of petitioner. She 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 06.07.2021, Harkeet Singh had informed Forest Officer that petitioner-Bachan Singh, who is working as daily wage 'Baildar', alongwith co-accused Harjinder Singh (son-in-law of petitioner) and two unknown persons was stealing two *Tahli* (*Sheesham*) trees from Jhambe Drain of the Forest Range, Patiala and it was clearly visible in the video that above said stolen wood was being loaded in vehicle bearing registration No.PB-11BY-5968. He further submits that on receipt of that information, accused persons were intercepted, whereas driver of above said vehicle fled away while leaving the vehicle on the spot. He further submits that initially petitioner-Bachan Singh misled the forest officials but lateron after due inquiry petitioner alongwith co-accused Harjinder Singh and two others was found to have been involved in the stealing of property of Forest Department. He further urges that petitioner being 'Baildar' of the Forest Department, was supposed and duty bound to protect the property of the department. He further urges that on the basis of evidence collected, offence under Section 408 IPC was added in the case on 02.08.2021. He further submits that though several raids were conducted to

nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and to trace the identity of co-accused who were involved in the commission of offence 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 on 06.07.2021, petitioner while serving as 'Baildar' in the Forest Range Office, Patiala, alongwith co-accused Harjinder Singh (son-in-law of petitioner) and two other accomplices, was found stealing two *Tahli* (Sheesham) trees of the Forest Department. 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

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**

**08.10.2021**  
*jitender*

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No