

CRM-M-32734-2021 (O&M)

211

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

Decided on: November 30, 2021.

(1)

CRM-M-32734-2021 (O&M).

Sukhjeet Singh @ Mintu

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

(2)

CRM-M-35589-2021 (O&M).

Sukhjeet Singh @ Mintu

.. Petitioner

VERSUS

State of Punjab and another

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Joginder Pal Devgan, Advocate,
for the petitioner in both the petitions.**

**Mr.Arun Kumar Kaundal, DAG, Punjab,
in CRM-M-32734-2021.**

CRM-M-32734-2021 (O&M)

**Mr.Randhir Singh Thind, DAG, Punjab,
in CRM-M-35589-2021.**

JASGURPREET SINGH PURI, J.

This order will dispose of the above noted two petitions i.e. CRM-M-32734-2021 filed under Section 438 of the Code of Criminal Procedure, for the grant of anticipatory bail in FIR No.175 dated 11.7.2021, registered under Sections 451, 379, 427 and 506 IPC at Police Station, Chheharta, District Police Commissionerate, Amritsar, Punjab and CRM-M-35589-2021, filed under Section 482 of the Code of Criminal Procedure for quashing of the above said FIR based upon compromise (Annexure P-2).

Both the cases are taken up together for disposal since they are based upon the same FIR and for the sake of brevity, the facts are taken up from CRM-M-32734-2021 in which the petitioner has prayed for anticipatory bail.

CRM-M-32734-2021

FIR in the present case was lodged on the basis of statement made by one Lakhwinder Singh son of Mukhtar Singh who had stated that he runs a shop of Mann Flour Mill at Guru Ki Wadali Main Road and at about 6:30 PM, along with his elder uncle Bachan Singh son of Roor Singh were present at his Flour Mill shop then Sukhjeet Singh @ Mintu (petitioner) came by driving his black coloured Honda City car bearing No PB02-AT-7155 and after parking the car at the side, he entered into his flour mill by keeping a wooden piece in his hand and just on entering, he started breaking down his shop with his wooden piece and

CRM-M-32734-2021 (O&M)

started threatening and hurling filthy words and further said that he will teach him a lesson for the fun for giving his CCTV footage to the police. The complainant and his uncle came out through the back door of the shop for saving their lives and thereafter, the petitioner ran away while abusing, threatening and taking out rupees 6-7 thousand from the drawer of the counter. As per statement petitioner broke down one measuring scale, cabin and its glass, LED of camera and machine used for stitching bags.

This Court had issued notice of motion on 13.8.2021, and granted interim bail to the petitioner subject to his joining investigation and furnishing of personal bonds and surety bonds and to comply with the conditions provided under Section 438 (2) Cr.P.C.

Thereafter, the State had also filed the reply of Assistant Commissioner of Police (West), Amritsar City dated 22.11.2021.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and it was a case of no injury and the only allegation was that the petitioner had broken the shop of the complainant and took away articles along with a cash amount of Rs.6000-7000/-. He further submitted that even otherwise also a compromise has been effected between the parties and although the petitioner was involved in another FIR earlier also but he is on bail in that case. He submitted that in pursuance of the order passed by this Court on 13.8.2021, the petitioner has joined the investigation and therefore, he may be granted the concession of anticipatory bail.

On the other hand, learned State counsel has submitted

CRM-M-32734-2021 (O&M)

that it is a case where the petitioner had attacked the shop of the complainant and had broken number of items and had further threatened the petitioner who ran out from the backdoor of the shop to save his life as well as the life of his uncle. During the course of investigation, statement of eye witness Bachan Singh was also recorded under Section 161 Cr.P.C. who corroborated all the allegations leveled in the FIR and the damaged articles were also taken into possession by the police. The learned DAG, Punjab, while referring to para 4 of the affidavit submitted that after the orders passed by this Court granting interim protection to the petitioner on 13.8.2021, the petitioner although joined the investigation but he has not cooperated with the investigation process and has not handed over the wooden log and the car used in the commission of crime and the present case is still under investigation. While further referring to para 5 of the petition, he submitted that the petitioner is a habitual offender and is involved in 12 other cases which include Section 302 IPC, NDPS Act and Sections 392, 370 etc. and 402 and 307 IPC. He submitted that the present petitioner is habitual offender and has not even cooperated with the investigation process and as such, he is not entitled for the discretionary relief of anticipatory bail and in case he is granted bail then there is every likelihood that he may repeat such like offences considering his antecedents and involvement in as many as 12 other cases.

I have heard the learned counsel for the parties.

The allegations pertain to damaging of articles at the shop of the complainant but at the same time, the antecedents of the

CRM-M-32734-2021 (O&M)

petitioner as well as his conduct in not cooperating with the investigation process despite interim bail granted to him, would dis-entitle the petitioner for the grant of anticipatory bail. The apprehension expressed by the learned Deputy Advocate General, Punjab, that considering the background and antecedents as well as the conduct of the petitioner, there is every likelihood that he may again repeat such like offences or any other offence carries weight. Furthermore, the wooden log as well as the car used in the alleged offence is yet to be recovered from the petitioner as per prosecution. Therefore, considering the aforesaid factual position, this Court is of the view that the petitioner is not entitled for the grant of anticipatory bail and therefore, the present petition for the grant of anticipatory bail is hereby dismissed.

CRM-M-35589-2021

The present petition has been filed for quashing of the FIR based upon compromise. Although the petitioner has attached the compromise with respondent No.2 as Annexure P-2 but the question which is to be considered by this Court would be as to whether the antecedents of the petitioner and his conduct would dis-entitle him from claiming the relief of quashing of FIR based upon compromise or not. The law with regard to the quashing of FIR based upon compromise is no longer res integra. The Hon'ble Supreme Court in *The State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (Crl.) 706*, has held that while exercising the powers under Section 482 Cr.P.C.. due care and caution has

CRM-M-32734-2021 (O&M)

to be exercised and it cannot be exercised in a mechanical manner. Furthermore, no precise formula or exhaustive list can be carved out wherein the Court may quash an FIR based upon compromise and it all depends upon facts and circumstances of each case. The antecedents and the conduct of the petitioner are also relevant while considering the prayer for quashing of FIR based upon compromise. In *Laxmi Narayan (supra)*, it was held that while exercising the powers under Section 482 Cr.P.C. to quash criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

In the present case, the antecedents of the petitioner can be ascertained from the affidavit filed by the State giving a list of cases in which the petitioner is involved and the status thereof which shows that in most of the cases, the petitioner has since been convicted. The list of the cases as mentioned in para 5 of the affidavit filed by the State is reproduced as under:-

<u>Sr.No.</u>	<u>FIR No., date, offence, Police Station</u>	<u>Present status</u>
1	FIR No. 72, dated 9.6.2010, U/S 302, 201 IPC, PS Islamabad, Amritsar City.	Convicted on 11.2.2014 for life imprisonment.

CRM-M-32734-2021 (O&M)

2	<i>FIR No. 221, dated 26.7.2010, U/S 382,34 IPC, PS Sadar, Amritsar City.</i>	<i>Convicted on 15.3.2012 for one year imprisonment with fine.</i>
3	<i>FIR No. 317, dated 28.7.2010, U/S 22 NDPS Act, PS Civil Lines, Amritsar City.</i>	<i>Convicted on 17.8.2021 for Undergone imprisonment.</i>
4	<i>FIR No. 116, dated 3.9.2010, U/S 323, 324, 34 IPC, PS Islamabad, Amritsar.</i>	<i>Acquitted</i>
5	<i>FIR No. 26, dated 21.2.2011, U/S 392, 120-B IPC, PS Sadar, Amritsar City.</i>	<i>Convicted on 10.10.2013 for undergone imprisonment.</i>
6	<i>FIR No. 12, dated 25.2.2011, U/S 379, 411, 467, 468 IPC, PS Mehta, Amritsar</i>	<i>Convicted for one year imprisonment.</i>
7	<i>FIR no. 125, dated 16.8.2011, U/S 420 IPC, Prison Act, PS Cantonment, Amritsar City.</i>	<i>Convicted on 20.3.2015 for two Months imprisonment.</i>
8	<i>FIR No. 282, dated 28.8.2011, U/S 224 IPC, PS Civil Lines, Amritsar City.</i>	<i>Convicted on 13.1.2013 for Undergone imprisonment.</i>
9	<i>FIR No. 409, dated 8.9.2012, U/S 307, 186, 353, 234,511 IPC, PS Civil Lines, Amritsar City.</i>	<i>Convicted on 30.1.2013 for one Year imprisonment</i>
10	<i>FIR No. 231, dated 11.11.2017, U/S 21, 25, 29 NDPS Act, PS Cantonment, Amritsar City.</i>	<i>Pending trial</i>

CRM-M-32734-2021 (O&M)

- | | | |
|----|---|---------------------------------|
| 11 | <i>FIR No. 210, dated 27.10.2019,
U/S 21, 29 NDPS Act, PS Chheharta,
Amritsar City.</i> | <i>Pending trial</i> |
| 12 | <i>FIR No. 202, dated 06.10.2020,
under Section 353, 186, 506 IPC,
PS Chheharta, Amritsar City.</i> | <i>under
investigation.</i> |

In view of the aforesaid factual position and the peculiar facts and circumstances of the present case as well as the factual and legal position, this Court is of the view that it is not a fit case for quashing of the FIR based upon compromise and this Court does not deem it fit and proper to invoke the extra-ordinary jurisdiction under Section 482 Cr.P.C. Consequently, the present petition is devoid of any merits and the same is hereby dismissed.

Pending misc. applications, if any, shall also stand disposed of accordingly.

November 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No