

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

CRM-M-34734-2021 (O&M)

Date of decision: 01.09.2021

Himanshu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Narula, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This second petition for pre-arrest bail has been filed by petitioner Himanshu, an accused in FIR No.436 dated 06.10.2019, for offences under Sections 148, 149, 323, 452, 506 IPC (Sections 307 and 325 IPC added later on), registered with Police Station Ganaur, District Sonapat.

Briefly stated the prosecution story is that, on 05.10.2019 at about 8.30 PM in the area of Village Khijjar Pur, Ahir Majra, Sonapat within jurisdiction of Police Station Ganaur, accused Rambir carrying an iron pipe, his sons Himanshu (petitioner/accused) and Abhishek carrying bodkins (suas) along with their co-accused Babli and Sheetal had attacked Dharampal causing him injuries; Himanshu and Abhishek are said to have repeatedly attacked Dharampal causing

him injuries on vital parts including on chest and back; keeping in view the nature of injuries to be grievous and dangerous to life, offences under Section 307 and 325 IPC were added later on.

Shakuntla @ Babli and Himanshu could not get the relief of pre-arrest bail from the Court of Sessions at Sonapat for offences under Sections 307 and 325 IPC; thereafter, they had approached this Court seeking similar relief by way of filing CRM-M-8085-2020; that petition was disposed of inasmuch as concession of anticipatory bail was granted to petitioner Shakuntla @ Babli but it was declined to Himanshu, observing that as informed by the State counsel, though, petitioner Himanshu had joined the investigation but he had neither got the weapon used in the incident recovered nor rendered proper cooperation in the investigation, therefore, his custodial interrogation was found to be necessary to effect the recovery of weapon used in the incident and to find out as to how the incident was planned and executed, the role played by each one of the assailants, from where the weapon used in the incident were procured and where they were concealed/dumped after the incident, the gravity and seriousness of allegations against petitioner Himanshu were also found to dis-entitle him to grant of pre-arrest bail; a detailed order giving reasons was passed on 26.07.2021.

Petitioner Himanshu has approached this Court again after less than one month of passing of the first order seeking relief of

pre-arrest bail. In this petition, almost the same assertions as in the first petition have been repeated, which were considered while dismissing the first petition qua the present petitioner. The petitioner by way of filing the instant petition wants this Court to review the order giving reasons, which are least convincing.

The Apex Court in recent judgment **G.R. Ananda Babu Vs. The State of Tamil Nadu & Anr.**, arising out of SLP (Crl.) No.213-2021, has deprecated the practise of filing the successive anticipatory bail applications. The operative part of the said order being as follows:-

“As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No. 2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.”

As such, the second petition for pre-arrest bail is not maintainable.

Learned counsel for the petitioner has referred to judgment **Ravindra Saxena Vs. State of Rajasthan**, 2010(1) SCC 684. That judgment had different facts and observations made therein were quite distinct that anticipatory bail cannot be rejected solely on the ground that challan had been presented and it can be granted at any time so

long as the accused has not been arrested. In this case, the situation is quite different. The FIR was though initially registered for offences under Sections 148, 149, 323, 452, 506 IPC, however, later on keeping in view the nature of injuries on the person of injured to be grievous and dangerous to life, therefore, offences under Sections 307 and 325 IPC were added. The concession of pre-arrest bail was declined to the petitioner/accused keeping in view the various factors, like gravity and seriousness of allegations, he having not cooperated during the investigation and not getting the weapon used in the incident recovered, keeping in view the facts and circumstances of the case, custodial interrogation of the petitioner was found to be necessary for unfolding the complete story. Learned counsel for the petitioner has come up with a plea that once the petitioner has joined the investigation, then he ought to be granted anticipatory bail. Such plea put-forward by learned counsel for the petitioner is not correct. Merely, because during the course of proceedings of pre-arrest bail, petitioner was allowed to join investigation, granting him interim bail does not bestow upon him a valuable right of confirmation of the interim bail so granted and acceptance of petition asking for pre-arrest bail. The crucial thing to be seen is as to whether the petitioner has cooperated during the investigation or not and if he has not done so, then the desirability of his custodial interrogation is examined and if found to be there, the petition is to be dismissed. The accused having been

granted concession of interim bail, who had joined investigation does not automatically get a right of being granted anticipatory bail. The observations in the judgment referred to by learned counsel for the petitioner **Ravindra Saxena** (supra) were in different context, which do not have any similarity with the present case.

Counsel for the petitioner has also relied upon judgment by this Bench in **Amarjit Singh & Anr., Vs. State of Punjab**, 2017 (3) Law Herald 2585, where while dealing with a prayer for pre-arrest bail for newly added offences, such concession was granted to the petitioner. However, a perusal of that judgment goes to show that the facts therein were different; the petitioners after joining investigation had got the recovery of weapon effected; they had not misused the concession of bail; SHO of the police station concerned had given report that nobody had used any sharp weapon. It was considering all those facts that the petition was allowed. In the present case, petitioner has not got the weapon used in the incident recovered and he has not cooperated during the investigation as informed by the State counsel and thereafter, his custodial interrogation has been found to be necessary.

Learned counsel has further referred to judgment **Gurbaksh Singh Sibbia etc. Vs. The State of Punjab**, 1980 (2) SCC 565 by larger Bench of the Supreme Court. The said judgment dealt with power to grant anticipatory bail, the conditions to be specified for grant of anticipatory bail etc. It cannot be made out as to what benefit

learned counsel for the petitioner wants to try by referring to this judgment.

The contentions put-forward by learned counsel for the petitioner are devoid of any merit. All the submissions made by him during course of arguments were considered while passing the order in in question. He wants to get the order reviewed by way of filing the second petition, which cannot be done. If so aggrieved, the petitioner is free to take recourse to the other remedy available to him under law by way of approaching the Apex Court or otherwise. However, he is not entitled to files successive applications before this Court in such a manner.

The petition so filed is absolutely without merit and is dismissed accordingly.

01.09.2021

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(H.S. MADAAN)
JUDGE

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