

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

CRM-M-36559-2021

Date of decision:-22.9.2021

Sunil Jain @ Sunil Rani

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Vikas Gupta, Advocate
for the petitioner.

Mr.Harpreet S. Multani, AAG, Punjab.

H.S. MADAAN, J.

This second petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Sunil Jain @ Sunil Rani, aged about 67 years, resident of 312/3, Waddi Mandi, Patti, Tehsil Patti, District Tarn Taran, an accused in FIR No.53 dated 24.4.2021, under Sections 21 and 22 NDPS Act and 308, 341, 120-B IPC (added later on), registered with Police Station City Patti, District Tarn Taran.

In nutshell, the prosecution story is that criminal machinery

in this case was set into motion by complainant Bhupinder Kumar, resident of Ward No.3, Street No.10, Patti, District Tarn Taran, who in the written complaint submitted by him to the police on 19.4.2021 stated that his son Kamal Sharma was going for some work at Waddi Mandi via Sai Wali Gali; on the way, Amma, Nitin Jain and his mother Sunil Jain @ Sunil Rani (present petitioner) signalled him and took him to their house, where 3-4 boys were already waiting, who tried to kill Kamal Sharma by injecting him with some synthetic intoxicant, however, when they could not succeed in their mission, then present petitioner gave some poisonous substance mixed in COKE to Kamal Sharma, after consuming which, he became unconscious; that while Kamal Sharma was unconscious, such persons snatched his wrist watch, bracelet and Rs.1,700/- in cash and then threw him out in the street; at about 4:00 p.m. when a friend of Kamal Sharma gave a phone call to him for going out for playing in the ground, then mother of Nitin Jain i.e. present petitioner disclosed that Kamal Sharma was lying in the street, then they found Kamal Sharma lying unconscious; he was removed to hospital of Dr.Trehan, from where he was referred to Sandhu Hospital, however, life of Kamal Sharma was saved with efforts of the doctors. Inter alia, in the complaint, the complainant submitted that Nitin Jain is a drug addict and he calls young boys to his house and then make them consume intoxicants and thereafter rob them. On the basis of such complaint, formal FIR in the matter was recorded.

Apprehending her arrest, the present petitioner had approached the Court of Sessions at Tarn Taran by filing an application

for grant of pre-arrest bail, but she was unsuccessful in getting a favourable order and her application for pre-arrest bail was dismissed by Judge, Special Court, Tarn Taran, vide order dated 31.5.2021. Thereafter, the petitioner/accused had approached this Court earlier by way of filing CRM-M-26881-2021. However, that petition was withdrawn getting liberty to file fresh petition after mentioning the complete facts. Now the present petitioner has again approached this Court by way of filing the instant petition asking for the similar relief, which request is being resisted by the State counsel.

I have heard learned counsel for the parties besides going through the records.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

The petitioner is specifically named in the FIR with allegations against her of active participation in the incident inasmuch as the present petitioner had given Cold – drink with intoxicant mixed therein, after consuming which, Kamal Sharma had become unconscious and thereafter he was robbed of his belongings.

Learned counsel for the petitioner has contended that the petitioner is of old age and does not have any past criminal record and one of the co-accused has committed suicide even. But such contentions is not of much helpful to the petitioner in getting pre-arrest bail. Of course old age of an accused is one of the factors, which may be taken into

consideration while considering his/her case for grant of pre-arrest bail but if allegations against such accused are quite serious and grave, then such factor is relegated to the background and does not tilt the scale in favour of the accused for grant of anticipatory bail. Similarly, though if an accused has got past criminal record that goes against him/her while his/her case for anticipatory bail is under consideration but non-involvement of such accused in any other criminal case is not by itself sufficient for making out a case for grant of pre-arrest bail to the accused. Similarly, the other reason explained that one of the co-accused has committed suicide does not have much relevance in the present case while considering the entitlement of the petitioner for grant of anticipatory bail. Though learned counsel for the petitioner has further contended that no MLR of Kamal Sharma has been attached and house of the petitioner is located in the street having a dead end and petitioner was not present in the house at the relevant time etc. But those contentions touch the merits of the case, which are not to be gone into detail at this stage when mainly the prosecution story is to be considered. Such contentions may be relevant at the time of trial but those cannot be given much importance at the present stage.

Furthermore, the custodial interrogation of the petitioner/accused is required for complete and effective investigation to effect the recovery of the robbed articles i.e. bracelet, wrist watch and cash amount belonging to the victim and to find out as to how the incident was planned and executed; the role played by each of the accused and how the robbed amount was distributed. In case custodial interrogation of

the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is uncalled for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

22.9.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No