

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

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**CRM-M-38569-2020
Date of decision: 08.04.2021**

Gurvir Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vishal Sharma, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

Mr. Gopal Singh Nahel, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.165 dated 22.08.2020 registered under Sections 304, 307 and 323 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Ahemadgarh, District Sangrur.

Briefly stated, the above said FIR was registered on statement of Hari Singh. In his statement, Hari Singh inter alia alleged that on 19.08.2020 at about 08:30 P.M. on hearing the noise he along with his wife Baldev Kaur went out of the gate of his house and saw accused Gurvir Singh (the petitioner) and his father Hardeep Singh grappling with his grandsons Gurdeep Singh and Sarpreet Singh. On hearing the noise, many villagers and Sarpanch Gurpreet Singh reached

the spot. Hardeep Singh exhorted Gurmail Singh to run his car over them on which the petitioner drove the car and he and his grandsons stepped aside but his wife Baldev Kaur was dragged who suffered injuries and subsequently died due to the same. The petitioner and Hardeep Singh left the car and fled from the spot. Harinder Singh was sitting in the car but he had no role in the fight. He (complainant Hari Singh) did not want any action to be taken against Harinder Singh. The police investigated the case, arrested Hardeep Singh and on completion of investigation filed charge-sheet against him.

Apprehending his arrest, the petitioner has filed the present petition for grant of anticipatory bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Rajan Sharma, PPS, Deputy Superintendent of Police, Sub Division Ahmedgarh, District Sangrur on behalf of the respondent-State.

The petition has also been opposed by learned Counsel for the complainant. However, no reply has been filed by the complainant.

I have head learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the record.

Learned Counsel for the petitioner has submitted that Harinder Singh was driving the car which accidently hit the wife of the complainant. Harinder Singh was caught on the spot and was given beatings by the villagers regarding which he was also medico legally examined. The petitioner has been falsely implicated in the case and he was not present on the spot. Had the petitioner been present on the spot

then he would also have been caught there. CCTV footage of the occurrence also does not show involvement of the petitioner in the crime. The petitioner is ready to join the investigation and his custodial interrogation would not be necessary in the case as no recovery is to be made. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State Counsel and learned Counsel for the complainant have submitted that the petitioner was driving the car and ran over Baldev Kaur wife of complainant Hari Singh and caused her death and thereby committed offence punishable under Section 304 of the IPC. Custodial interrogation of the petitioner is required for thorough investigation of the case. The petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

In ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his/her liberty. (See also ***D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434***, ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213*** and ***Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305***).

In ***P. Chidambaram Vs. Directorate of Enforcement (SC) : 2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section

438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In *State Rep. by The CBI Vs. Anil Sharma* : (1997) 7 SCC

187, the Supreme Court held as under:-

"4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

In view of the above referred judicial precedents and facts and circumstances of the case, material on record which prima facie shows involvement of the petitioner in commission of the alleged offences coupled with the fact that custodial interrogation of the petitioner is necessary for thorough investigation of the case and also

for collection of material evidence regarding various aspects of the crime committed, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is hereby dismissed.

08.04.2021

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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No