

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

101

**CRM-M-38623-2020
Date of decision: 01.04.2021**

Kartar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Dinesh Trehan, Advocate
for the petitioner.

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

Mr. Tejinderpal Singh, 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.52 dated 10.07.2020 registered under Sections 307, 323, and 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Sadar Nawanshahar, District Shaheed Bhagat Singh Nagar.

The above said FIR was registered on statement of Sukhvir Singh, who alleged that on 02.07.2020 in the evening, when he and his brother Dara Singh were working in the fields, Kartar Singh @ Giani (the petitioner) and his son Kulwinder Singh @ Kali were also working in their fields and there was exchange between them on the question of crossing over of tractor of the petitioner and his son Kulwinder Singh

@ Kali in their fields. Thereafter the petitioner and his son went to the towards village and he and his brother also came back to their house on motorcycle. At about 07:00 P.M., when his brother Dara Singh opened the gate and entered in the house and he was about to take his motorcycle inside the house from the street, the petitioner armed with gandasi, his son Kulwinder Singh @ Kali armed with iron rod and his wife Nirmaljeet Kaur came and the petitioner raised lalkara and inflicted gandasi blow on his head on which he fell down on the ground. Kulwinder Singh @ Kali gave iron rod blow in his abdomen on left side. Nirmaljeet Kaur gave kick blows to him.

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

Notice of motion.

Pursuant to supply of advance copy, Mr. Rana Harjasdeep Singh, DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

Mr. Tejinderpal Singh, Advocate has appeared on behalf of the complainant and he undertakes to file his power of attorney in the Registry of this Court.

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 argued that the petitioner has been falsely implicated in the present case on the basis of false and concocted allegations. The case involves version and cross-version. The complainant pulled the beard of the petitioner and in a

spur of a moment the fight took place. Injuries were also caused to the petitioner in the fight. The petitioner is ready to join the investigation and his custodial interrogation would not be necessary in the case. 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 inflicted gandas blow on the head of complainant Sukhvir Singh resulting in fracture of the skull which injury was declared to be dangerous to life. Custodial interrogation of the petitioner is required in the case for thorough investigation of the case and recovery of the weapon of offence. 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 enroped 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, recovery of the weapon of offence and also collection of other material evidence

available in this regard, 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.

01.04.2021

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(ARUN KUMAR TYAGI)
JUDGE

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