

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

103

CRM-M-44418-2021.

Date of Decision: 26.10.2021.

Parteep

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Davinder Lubana, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. has been moved by petitioner-**Parteep** for grant of pre-arrest bail in case FIR No.32 dated 30.03.2021 under Section 302 IPC read with Section 34 IPC, registered at Police Station Moonak, District Sangrur.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that though alleged occurrence took place on 29.03.2021, whereas present FIR was lodged on 30.03.2021 and as such there was inordinate delay of 01 day in lodging the FIR and that too unexplained one, which creates doubt in the veracity of complainant's version. He further urges that petitioner was not present on the spot of alleged occurrence. He further submits that Ravinder (since deceased) was real nephew (*Bhanja*) of father of petitioner. He further urges that petitioner has been falsely implicated in the instant FIR due to rivalry

between the family of petitioner and complainant (father of deceased Ravinder). He further submits that after the alleged incident, complainant-Mubasi brought his son injured-Ravinder to Civil Hospital, Moonak, but without getting him (Ravinder) medico-legally examined took him to Civil Hospital, Tohana, where he (Ravinder) was declared brought dead. He further urges that in view of above, complainant-Mubasi did not allow the doctors to treat his son (Ravinder) properly. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

Notice of motion.

At the asking of Court, Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab, accepts notice on behalf of respondent-State. Complete copy of paperbook has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that on 29.03.2021 petitioner alongwith co-accused Ajay while armed with deadly weapon (knife) in furtherance of their common intention, inflicted blows of knife on the chin as well as left side chest of Ravinder and those injuries proved fatal. He further submits that petitioner was specifically named in the FIR and he actively participated in the commission of offence in the manner that while he caught hold both hands of Ravinder (since deceased), then co-accused Ajay inflicted a blow of knife on the chin of Ravinder and then he (Ajay) gave another blow of knife on the left side of his chest, as a result of which, Ravinder fell down and though he was taken to hospital for treatment but he was declared

brought dead. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is required to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused Ajay while armed with deadly weapon (knife) in furtherance of their common intention committed murder of Ravinder. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes

in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

26.10.2021
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No