

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(206)

CRM-M-9443-2022

Date of decision: - 07.04.2022

Kulwinder Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gursimran Singh Madaan, Advocate,
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Bhupinder Kumar Gupta, Advocate
for respondents No.2 and 3.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.135 dated 26.11.2021, registered under Sections 326, 307, 325, 324 and 34 of the Indian Penal Code, 1860, at Police Station Fattu Dyinga, District Kapurthala.

On 07.03.2022, this Court was pleased to pass the following order:-

“This is the second petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.135 dated 26.11.2021, registered under Sections 326, 307, 325, 324 and 34 of the Indian Penal Code, 1860, at Police Station Fattu Dyinga, District Kapurthala.

Learned counsel for the petitioner has submitted that in the

*present case, the first anticipatory bail petition was filed, which came up hearing on 21.01.2022 and the same was dismissed as withdrawn. It is submitted that after the said order was passed, the petitioner and other co-accused have compromised the matter with respondents No.2 and 3, who are the complainant and victim. Reference has been made to the compromise/statement dated 28.02.2022 (Annexure P-10), as per which, it is clear that in the present case, FIR was registered against the petitioner and co-accused and cross-case/DDR was registered against respondents No.2 and 3. In order to bring peace and amity, the compromise has been effected and it was decided that both the parties would not prosecute the FIR and the DDR case and they would have no objection in case the parties are discharged from the said criminal cases. It was also stated that the necessary petitions for quashing of FIR/cross-case would also be filed. Learned counsel for the petitioner has further submitted that on account of the said compromise, all the disputes between the parties have been resolved and since the petitioner and private respondents are neighbours, thus, the same would bring peace and amity between them. It is also submitted that in case the anticipatory bail of the petitioner is dismissed, then the same would come in the way of the disputes being resolved. Learned counsel for the petitioner has relied upon a judgment of a Co-ordinate Bench of this Court in 'Harninder Kaur alias Maninder Kaur Vs. State of Punjab and another', passed in **CRM-M-3358-2014 on 10.02.2014**, to contend that subsequent compromise would be an exceptional circumstance to entertain the second anticipatory bail application. It has been fairly argued that normally the second anticipatory bail petition would not be maintainable and the same would only be maintainable in exceptional circumstances and the subsequent compromise is one of those exceptional circumstances.*

Notice of motion.

On the asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and Mr. Bhupinder Kumar Gupta, Advocate, appears and accepts notice on behalf of respondents No.2 and 3.

Learned counsel for respondents No.2 and 3 had fully endorsed the fact that the matter has been compromised and has jointly prayed

that the present petition be allowed and the petitioner be granted the anticipatory bail as in case he is arrested in the present case, then the same would come in the way of the matter being fully resolved. It is also submitted that the said compromise is genuine, bona-fide and has been entered into between the parties without any coercion or undue influence.

Adjourned to 07.04.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

(VIKAS BAHL)

March 07, 2022

JUDGE”

Learned counsel for the petitioner has submitted that in pursuance of the above-said order, the petitioner has joined the investigation.

Learned State counsel, on instructions from ASI Dhyan Singh, has submitted that in pursuance of the above order, the petitioner has joined the investigation and is not required for further investigation as the recovery has already been effected from him.

Learned counsel for respondents No.2 and 3 has reiterated the fact that the matter has been compromised and stated that respondents No.2 and 3 have no objection in case the present petition is allowed.

Keeping in view the above, the present petition for grant of anticipatory bail to the petitioner is allowed and the interim order dated 07.03.2022 is made absolute.

However, nothing stated above shall be construed as a final

expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

April 07, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No