

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

CRM-M-13320-2021

Date of decision : 11.05.2022

Vinod Kumar

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K. S.Brar, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

Mr. Vinod Ghai, Sr. Advocate with
Mr. Rajesh Sheoron, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in case FIR No.221 dated 30.11.2019 under Sections 386 and 34 Indian Penal Code, 1860 and Sections 25 and 27 Arms Act, 1959 registered at Police Station City Kotkapura, District Faridkot, who apprehends his arrest at the hands of Police.

The allegations in the FIR, as noticed by learned Additional Sessions Judge, Faridkot in the order dated 23.02.2021 are as under:-

“Perusal of record reveals that complainant Arvind Kumar suffered a statement before the police to the effect that he is working as driver with the contractors of Prime Vision Industries. On 30.11.2019, at about 1:00 PM (noon time), he alongwith muneem Malkhan Singh son of Seo Singh and Gunman Bhura Singh Rathor @ Dharminder Singh, was going from Pathankot to Ganganagar, on Scorpio vehicle bearing No.PB10EH-9436, taking cash of Rs.20 lacs belonging to contractors, which was lying in laptop bag. The vehicle was being driven by him, Gunman Bhura Singh was sitting on the adjoining seat and Mulkhan Singh alongwith bag

containing cash amount, was sitting on the rear seat of the Car. At about 5:00/5:30 PM, when they were little behind from Flyover bridge, Kotkapura, on Highway, Gunman Bhura Singh got stopped the vehicle. He took mobile phone from Malkhan Singh and after putting down him from the vehicle, shut the window of the vehicle, put the pistol on his groin and asked him to run the vehicle. He, after taking out the battery from the Mobile Phone, kept the Mobile Phone in the vehicle. When they reached 15-20 kilometer away on Highway Bathinda Road, one Fortune vehicle was already stationery on the Highway facing towards Bathinda, registration number of which he could not read. Four persons were sitting in the said vehicle. Bhura Singh Rathor got stopped the vehicle and after picking up the bag containing cash, sit in the Fortune vehicle and went towards Bathinda. He returned in his vehicle to Kotkapura City and after searching Malkhan Singh, they took GM Mahavir, Ferozepur, with them and reached the Police Station for lodging complaint. On the basis of said statement, present FIR was registered against Bhura Singh Rathor and four unknown persons, for offence under Sections 386,34 IPC and 25,27 of Arms Act. During investigation, it was found that accused-applicant by changing his name and father name as Bhura Singh Rathor @ Dharminder Singh son of Ramkirat Singh, got job in Prime Vision Industry and thus, vide DDR No.49 dated 22.2.2021, Vinod Kumar @ Dharminder Singh @ Bhura Singh Rathor son of Vijnath Singh, was nominated as accused.”

Learned counsel for the petitioner has argued that as per allegations by complainant, Arvind Kumar employed as driver with the contractors, namely, Prime Vision Industries set off for journey along with Gunman Bhura Singh and muneem Malkhan Singh, who was also carrying cash of Rs.20 lacs, and when they reached near Kotakpura fly over, Bhura Singh by showing his weapon took the money bag and left the vehicle to join four other unknown persons, who were waiting for him in vehicle make-Fortuner and absconded. He submits that the petitioner has been falsely implicated as Bhura Singh, who is actually Vinod Kumar and in this regard

he has invited the attention of the Court to Annexure P-2 to submit that he was employed as driver with Smt.Karuna Chandak, who was given vehicle entry permission by returning officer on 25.11.2019, to the employer (election candidate), wherein the name of petitioner is specifically mentioned as Vinod Kumar. He has further argued that the alleged occurrence took place on 30.11.2019, whereas the name of the petitioner has been implicated after a long delay. He further states that pursuant to the order dated 08.09.2021, he has joined the investigation. He prays for pre arrest bail.

The prayer is vehemently opposed by Mr. Vinod Ghai, Senior counsel who has argued that the petitioner while getting employment in the complainant's company concealed his true identity/name and there is no reason for the other employees to falsely implicate him as the petitioner was accompanying them as security guard, as they were carrying cash. He submits that it is wrongly pleaded in the petition that he is not involved in any other criminal case, whereas he is accused in FIR No.8 dated 19.03.2020 and FIR No.105 dated 01.10.2021 and the other offences are also of the similar nature. He has controverted the stand of the learned counsel for the petitioner and submitted that in Annexure P-2 i.e. the permission letter dated 25.11.2019, name of the petitioner is written in hand and the same is a tampered photocopy. He submits that in the given facts, custodial interrogation of the petitioner is necessary to identify the other co-accused. He prays that the petition be dismissed.

On the other hand, learned State counsel who is assisted by ASI

Binda Singh refers to short reply filed by way of affidavit of Balkar Singh,

PPS, Deputy Superintendent of Police, Sub Division Kotkapura, District Faridkot and has argued that the petitioner's wife, namely, Sarvesh Thakur got her statement recorded under Section 161 Cr.P.C, who stated that her husband was employed with Prime Vision Industries and his father's name is Brij Nath. She further revealed that her husband got recorded wrong father's name as Ram Kirat Singh at the time of joining the company. He has further argued that the petitioner is in habit of changing his identities and in the present petition also, no strict proof of his identity has been placed on record by him. He submits that the other employees of the company have specifically named the petitioner as an accused, therefore, his custodial interrogation is necessary. He prays for dismissal of the petition.

At this stage, learned counsel for the petitioner has argued that the petitioner served the company for a long time, but when he came to learn about the illegal activities of the complainant's company, he left the job, therefore, in order to pressurize the petitioner, the false FIR has been lodged against him. He further submits that in both case FIR's mentioned above by learned counsel for the complainant, he is on bail.

After hearing learned counsel for the parties and considering the above background, this Court finds that as per prosecution, money belonging to company was taken away by their employee Bhura Singh, who was a Gunman and it is not disputed by learned counsel that the petitioner also served with the company for a long time, therefore, the stand of the petitioner that he is not Bhura Singh and is Vinod Kumar is not supported with any convincing material, much less the statement of his wife. Apart from it, during the course of hearing, it is not disputed by learned counsel

that the petitioner never gave any complaint to police regarding the illegal activities of the company, though he had left the job in October 2019 just before the alleged occurrence.

Thus considering the nature and seriousness of the offences, this Court does not find it to be a fit case for extending the extra ordinary concession of pre arrest bail to the petitioner as his custodial interrogation may be necessary to unravel the truth relating to the involvement of other accused in the alleged crime.

Resultantly, without meaning any expression or opinion on the merits of this case, no case is made out for grant of extra ordinary concession of pre-arrest bail to the petitioner.

Dismissed.

(MANOJ BAJAJ)
JUDGE

11.05.2022

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