

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

**CRM-M No. 21348 of 2022
Date of Decision: 18.05.2022**

Harpreet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Anil Kumar Sharma, Advocate, for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR No. 24 of 25.04.2022, which was registered against him, at Police Station Bakshiwal, District Patiala, constituting therein offences under Sections 457 & 380 of the Indian Penal Code.

2. The informant – aggrieved became pained at the grass cutter machine 2 HP, used for threading fodder for being fed to the animals, becoming stolen on the midnight of 14.05.2022, from the premises concerned. In the FIR, though initially he has not named the present petitioner, to commit the above criminal act. However, in the latter part of the FIR, he reveals that, on the basis of his making suo moto enquiries, his being disclosed by some unknown persons about the petition crime, becoming committed, by the present bail petitioner. Since, the informant – aggrieved did not witness, the present bail petitioner to commit the petition crime, thereupon, the attribution of an incriminatory role, by him, to the present petitioner, cannot at this stage, become assigned any credence.

Moreover, even if he was not a witness to the commission of the petition

crime, yet if there were ocular witnesses to the commission of the petition crime by the present petitioner, thereupon, the ocular witness concerned, was to make statement(s), before the police officer concerned. However, no statement of any purported ocular witness to the petition crime has been either recorded, nor, is existing on the record of the Investigating Officer (IO) concerned. Contrarily merely on some suo moto enquiries made by the aggrieved-informant, he inculcates the present petitioner, but yet unless the source of the information, and, the identity of the person(s), who revealed the participation in the petition crime of the present bail petitioner, became unfolded, whereas, the apposite source remaining unraveled, thereupon, the above revelations rather by unknown persons, *qua* the incriminatory participation of the present petitioner in the petition crime, becomes ill-founded, as they are merely hearsay evidence, and, is / are not admissible as valid, and, sound evidence.

3. Be that as it may, the penal incident occurred on 14.05.2022, whereas, the FIR *qua* thereof, became instituted on 25.04.2022. The above delay begets a conclusion, that the version averred therein is stained with a vice of pre-mediation, and, concoction, moreso, given the above drawn inference about, the evidence in respect of the participation of the present petitioner in the petition crime, being entirely surmisal or being rested upon inadmissible hearsay evidence.

4. Given the afore, and, also when no material has been placed on record by the prosecution, suggesting that in the event of the bail applicant being enlarged on pre-arrest bail, there is every likelihood of his fleeing from justice, and, or, tampering with prosecution evidence. Therefore, this

petitioner.

5. In sequel, it is ordered that in the event of arrest of the bail applicant-petitioner, he be released on anticipatory bail, by the Investigation Officer, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before him, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also, as and when he is summoned by the investigating officer, through a written Hukamnama, his cooperating in the investigations to be made into the offence(s) concerned.

6. Disposed of.

7. Any observation made hereinabove is in respect of the disposal of the instant petition, and, shall not be taken to be any observation on the merits of the case, and, nor the learned trial Judge concerned, shall be influenced from the afore order, as and when the learned trial Judge concerned, enters upon the trial, against the accused.

May 18, 2022

'dk kamra'

**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>